

CHAPTER 63—S.F.No. 1910

An act relating to commerce; providing for the licensing and regulation of certain persons; establishing prelicense and continuing education requirements; amending Minnesota Statutes 2008, sections 45.22; 45.23; 60K.31, by adding a subdivision; 60K.36, subdivision 4, by adding a subdivision; 60K.37, by adding a subdivision; 60K.55, subdivision 2; 60K.56; 72B.02, subdivisions 2, 5, 6, 11, by adding subdivisions; 72B.03; 72B.05; 72B.06; 72B.08, subdivisions 1, 2, 4; 72B.135, subdivisions 1, 2, 3; 82.32; 82B.05, subdivision 1; 82B.08, by adding subdivisions; 82B.09, by adding a subdivision; 82B.10; 82B.13, subdivisions 4, 5, 6; 82B.19, subdivisions 1, 2; 82B.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 45; 60K; 72B; 82; 82B; repealing Minnesota Statutes 2008, sections 72B.02, subdivision 12; 72B.04; 82B.02; Minnesota Rules, parts 2808.0100; 2808.1000; 2808.1100; 2808.1200; 2808.1300; 2808.1400; 2808.1500; 2808.1600; 2808.1700; 2808.2000; 2808.2100; 2808.6000; 2808.7000; 2808.7100; 2809.0010; 2809.0020; 2809.0030; 2809.0040; 2809.0050; 2809.0060; 2809.0070; 2809.0080; 2809.0090; 2809.0100; 2809.0110; 2809.0120; 2809.0130; 2809.0140; 2809.0150; 2809.0160; 2809.0170; 2809.0180; 2809.0190; 2809.0200; 2809.0210; 2809.0220.

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

Section 1. Minnesota Statutes 2008, section 45.22, is amended to read:

45.22 LICENSE EDUCATION APPROVAL.

License education courses must be approved in advance by the commissioner. Each ~~sponsor~~ education provider who offers a license education course must be approved by the commissioner. Each approved ~~sponsor~~ education provider must have at least one coordinator who meets the criteria specified in ~~Minnesota Rules, chapter 2809~~ this chapter, and who is responsible for supervising the educational program and assuring compliance with all laws and rules. ~~"Sponsor" means any person or entity offering approved education.~~

For courses with an initial approval date on or before December 31, 2000, approval will expire on April 30, 2006. For courses with an initial approval date after January 1, 2001, but before August 1, 2005, approval will expire on April 30, 2007.

Sec. 2. Minnesota Statutes 2008, section 45.23, is amended to read:

45.23 LICENSE EDUCATION FEES.

The following fees must be paid to the commissioner:

(1) initial course approval, \$10 for each hour or fraction of one hour of education course approval sought. Initial course approval expires on the last day of the 24th month after the course is approved;

(2) renewal of course approval, \$10 per course. Renewal of course approval expires on the last day of the 24th month after the course is renewed;

(3) initial sponsor education provider approval, \$100. Initial sponsor education provider approval issued under this section is valid for a period not to exceed 24 months and expires on January 31 of the renewal year assigned by the commissioner. Active sponsors education providers who have at least one approved coordinator as of the effective date of this section are deemed to be approved sponsors education providers and are not required to submit an initial application for sponsor education provider approval; and

(4) renewal of sponsor education provider approval, \$10. Each renewal of sponsor education provider approval is valid for a period of 24 months. Active sponsors education providers who have at least one approved coordinator as of the effective date of this section will have an expiration date of January 31, 2008.

Sec. 3. [45.25] DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 45.25 to 45.43, the terms defined in this section have the meanings given them.

Subd. 2. **Appropriate and related knowledge.** "Appropriate and related knowledge" means facts, information, or principles that are clearly relevant to the licensee in performing responsibilities under a license. These facts, information, or principles must convey substantive and procedural knowledge as it relates to postlicensing issues and must be relevant to the technical aspects of a particular area of continuing education.

Subd. 3. **Classroom hour.** "Classroom hour" means a 50-minute hour. Breaks must not be accumulated in order to dismiss the class early. Classes must not be offered to any one student for longer than eight hours in one day, excluding meal breaks.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 5. **Coordinator.** "Coordinator" means an individual who is responsible for monitoring approved educational offerings.

Subd. 6. **Education provider.** "Education provider" means a person offering or providing approved education.

Subd. 7. **Encrypted online examination.** "Encrypted online examination" means an examination offered over the Internet that is (1) inaccessible to anyone but the student taking the examination, who must have a unique login and password to see it, and (2) protected with security measures that make it unreadable if it is electronically stolen. In addition, the student must not have the ability to download and save the examination in any readable form.

Subd. 8. **Instructor.** "Instructor" means an individual who (1) lectures in an approved educational offering, or (2) creates an interactive Internet or self-study course.

Subd. 9. **Licensee.** "Licensee" means a person licensed by the Department of Commerce for whom an examination is required before licensure.

Subd. 10. **Overpayment.** "Overpayment" means any payment of money in excess of a statutory fee.

Subd. 11. **Person.** "Person" means a natural person, firm, institution, partnership, corporation, limited liability company, limited liability partnership, or association.

Subd. 12. **Proctor.** "Proctor" means a disinterested third party with no conflict of interest who verifies a student's identity and processes an affidavit testifying that the student received no outside assistance with the course or examination.

Subd. 13. **Professional designation.** "Professional designation" means a written, proctored, and graded examination, the passage of which leads to a bona fide professional designation used by licensees.

Sec. 4. **[45.26] PAYMENT OF FEES.**

Subdivision 1. **Manner of payment.** All fees must be paid by check, draft, or other negotiable or nonnegotiable instrument or order of withdrawal that is drawn against funds held by a financial institution. Cash will not be accepted.

Subd. 2. **Refunds.** An overpayment of a course or coordinator approval fee must be refunded within 90 days after a letter requesting the refund is received by the commissioner and signed by the person making the overpayment.

Refunds must not be given for other than overpayment of fees. A request for a refund of an overpayment must be received by the commissioner within six months of the date of deposit or it will be forfeited.

Sec. 5. **[45.27] FORMS.**

All forms required by this chapter must be made in the form set forth by the commissioner. Forms may be duplicated, but must be readable. Computer generated lists and forms with the same information as required in existing forms must be accepted by the department if prior approval is granted by the department.

Sec. 6. **[45.28] TEXTBOOKS REQUIRED.**

All prelicense courses must require the use of a textbook or a detailed workbook. The textbook or workbook must cover the subject matter of the course and must be current.

Sec. 7. **[45.29] INITIAL EDUCATION.**

Subdivision 1. **Content.** Successful completion of prelicense education includes full-time attendance throughout the course, completion of required assignments or reading material if applicable, and passage of an examination designed by the education provider that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course.

Prelicensing courses may include coverage of subject matter not prescribed in this section. However, the subject matter must be presented in addition to, and must not be substituted for, the course content or hours specified for the particular industry. A student must not be required to pass an examination, or part of an examination, on this material in order to be able to obtain a license.

Subd. 2. **Course submission.** Courses must be submitted by the coordinator, instructor, or education provider at least 30 days before the initial offering of the course.

Sec. 8. **[45.30] CONTINUING EDUCATION.**

Subdivision 1. **Content.** Continuing education consists of approved courses that impart appropriate and related knowledge in the field for which approval is requested. The

burden of demonstrating that courses impart appropriate and related knowledge is upon the person seeking approval or credit. The commissioner may approve any educational offering approved by the regulatory agency of another state if it does not conflict with Minnesota law, and any courses leading to a nationally recognized professional designation used by licensees regulated by this chapter.

Subd. 2. **Examinations.** Course examinations are required for interactive Internet courses but are not required for other continuing education courses unless they are required by the education provider. When certain prelicense courses are permitted to be used for continuing education, the licensee must pass the same examination as is required for those taking the course for prelicensing.

Subd. 3. **Textbooks.** Textbooks are not required to be used for continuing education courses unless the course is also approved as a prelicense course. If textbooks are not used, students are to be provided with a syllabus containing, at a minimum, the course title, the times and dates of the course offering, the names and addresses or telephone numbers of the course coordinator and instructor, and a detailed outline of the subject materials to be covered. Any written or printed material given to students must be of readable quality and contain accurate and current information.

Subd. 4. **Credit earned.** (a) Upon completion of approved courses, students must earn one hour of continuing education credit for each hour approved by the commissioner. Continuing education courses must be attended in their entirety in order to receive credit for the number of approved hours.

(b) Qualified instructors will earn three hours of continuing education credit for each classroom hour of approved instruction that they deliver (1) independently, or (2) as part of a team presentation in a course of two hours or less, if they attend the course in its entirety. No more than half of the continuing education hours required for renewal of a license may be earned as a qualified instructor at the rate of three hours of continuing education credit for each classroom hour of approved instruction. No credit will be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

Subd. 5. **Nonapproved courses for continuing education.** The following courses will not be approved for credit:

- (1) courses designed solely to prepare students for passing a license examination;
- (2) courses in mechanical office or business skills, including typing, speed reading, or other machines or equipment. Computer skills courses are allowed, if appropriate and related to the industry to which the courses are directed;
- (3) courses in sales promotion, including meetings held in conjunction with the general business of the licensee;
- (4) courses in motivation, salesmanship, psychology, time management, or communication, except as prescribed in prelicense training;
- (5) courses related to office management or intended to improve the operation of the licensee's business; and
- (6) courses that are primarily intended to impart knowledge of specific products of specific companies, if the use of the product or products relates to the sales promotion or marketing of one or more of the products discussed.

Subd. 6. **Course approval.** (a) Courses must be approved by the commissioner in advance. A course that is required by federal criteria or a reciprocity agreement to receive a substantive review will be approved or disapproved on the basis of its compliance with the provisions of laws and rules relating to the appropriate industry. At the commissioner's discretion, a course that is not required by federal criteria or a reciprocity agreement to receive a substantive review may be approved based on a qualified provider's certification on a form specified by the commissioner that the course complies with the provisions of this chapter and the laws and rules relating to the appropriate industry. For the purposes of this section, a "qualified provider" is one of the following: (1) a degree-granting institution of higher learning located within this state; (2) a private school licensed by the Minnesota Office of Higher Education; or (3) when conducting courses for its members, a bona fide trade association that staffs and maintains in this state a physical location that contains course and student records and that has done so for not less than three years. The commissioner may review any approved course and may cancel its approval with regard to all future offerings. The commissioner must make the final determination as to accreditation and assignment of credit hours for courses. Courses must be at least one hour in length, except courses for real estate appraisers must be at least two hours in length.

Individuals wishing to receive credit for continuing education courses that have not been previously approved may submit the course information for approval. Courses must be in compliance with the laws and rules governing the types of courses that will and will not be approved.

Approval will not include time spent on meals or other unrelated activities.

(b) Courses must be submitted at least 30 days before the initial proposed course offering.

(c) Approval must be granted for a subsequent offering of identical continuing education courses without requiring a new application. The commissioner must deny future offerings of courses if they are found not to be in compliance with the laws relating to course approval.

(d) When either the content of an approved course or its method of instruction changes, the course is no longer approved for license education credit. A new application must be submitted for the changed course if the education provider intends to offer it for license education credit.

Subd. 7. **Courses open to all.** All course offerings must be open to any interested individuals. Access may be restricted by the education provider based on class size only, except that access to a course offering sponsored by, offered by, or affiliated with an insurance company or agency may be restricted to agents of the company or agency. Courses must not be approved if attendance is restricted to any particular group of people, except for company-sponsored courses allowed by statute.

Sec. 9. **[45.305] PRELICENSE EDUCATION COURSES OFFERED OVER THE INTERNET.**

Subdivision 1. **Appraiser and insurance Internet prelicense courses.** The design and delivery of an appraiser prelicense education course or an insurance prelicense education course must be approved by the International Distance Education Certification Center (IDECC) before the course is submitted for commissioner's approval.

Subd. 2. **Real estate Internet prelicense courses.** The design and delivery of a real estate prelicense education course must be approved by either IDECC or the Association of Real Estate License Law Officials before the course is submitted for the commissioner's approval.

Subd. 3. **Academic credit Internet courses.** Subdivisions 1 and 2 do not apply to Internet prelicense courses offered for academic credit by an accredited college, community college, or university that offers distance education programs and is approved or accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States Secretary of Education.

Subd. 4. **Interactive Internet course requirements.** An interactive Internet prelicense education course must:

- (1) specify the minimum system requirements;
- (2) provide encryption that ensures that all personal information, including the student's name, address, and credit card number, cannot be read as it passes across the Internet;
- (3) include technology to guarantee seat time;
- (4) include a high level of interactivity;
- (5) include graphics that reinforce the content;
- (6) include the ability for the student to contact an instructor 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 down time 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 down time 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 comprehensive final examination covering all required topics;

(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; and

(22) provide a completion certificate when the course and exam have been completed and the provider has verified the completion. Electronic certificates are sufficient.

Subd. 5. **Final examination.** The final examination for a prelicense education course offered over the Internet must be monitored by a proctor who certifies that the student took the examination. The exam must be either a paper examination or an encrypted online examination. The student must not be allowed to review the course content once the examination has begun.

Sec. 10. [45.306] CONTINUING EDUCATION COURSES OFFERED OVER THE INTERNET.

Subdivision 1. **Appraiser Internet continuing education courses.** The design and delivery of an appraiser continuing education course must be approved by the International Distance Education Certification Center (IDECC) before the course is submitted for the commissioner's approval.

Subd. 2. **Interactive Internet course requirements.** An interactive Internet continuing education course must:

(1) specify the minimum system requirements;

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

(3) include technology to guarantee seat time;

(4) include a high level of interactivity;

(5) include graphics that reinforce the content;

(6) include the ability for the student to contact an instructor 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 down time 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 down time 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;
- (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; and
- (22) provide a completion certificate when the course and exam have been completed and the provider has verified the completion. Electronic certificates are sufficient.

Subd. 3. **Final examination.** 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. The student must not be allowed to review the course content once the examination has begun.

Sec. 11. [45.307] EDUCATION PROVIDER.

A person applying for approval as an education provider must make available upon request such records and data required by the commissioner to administer the provisions and further the purposes of this chapter.

Sec. 12. [45.31] COURSE COORDINATOR.

Subdivision 1. **Requirement.** Each course of study must have at least one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with all laws and rules. Education providers may engage an additional coordinator, approved for their providership, in order to assist the coordinator or to act as a substitute for the coordinator in the event of an emergency or illness.

Subd. 2. **Approval.** (a) The commissioner must approve as a coordinator a person meeting one or more of the following criteria: at least three years of full-time experience in the administration of an education program during the five-year period immediately before the date of application, or a degree in education plus two years experience during the immediately preceding five-year period in one of the regulated industries for which courses are being approved, or a minimum of five years experience within the previous six years in the regulated industry for which courses are held. A person applying for approval

as a course coordinator must make available upon request such records and data required by the commissioner to administer the provisions and further the purposes of this chapter.

(b) Coordinator approval may not be transferred to an individual who has not already been approved as an additional coordinator for the applicable license type for the providership in question. An individual must be approved as a coordinator by the commissioner before acting on behalf of an approved education provider.

Subd. 3. **Responsibilities.** A coordinator is responsible for:

(1) assuring compliance with all laws and rules relating to educational offerings governed by the commissioner;

(2) assuring that students are provided with current and accurate information relating to the laws and rules governing their licensed activity;

(3) supervising and evaluating courses and instructors. Supervision includes assuring, especially when a course will be taught by more than one instructor, that all areas of the curriculum are addressed without redundancy and that continuity is present throughout the entire course;

(4) ensuring that instructors are qualified to teach the course offering;

(5) furnishing the commissioner, upon request, with copies of course and instructor evaluations and qualifications of instructors. Evaluations must be completed by students and coordinators;

(6) investigating complaints related to course offerings and instructors and forwarding a copy of the written complaints to the Department of Commerce;

(7) maintaining accurate records relating to course offerings, instructors, tests taken by students, and student attendance for a period of three years from the date on which the course was completed. These records must be made available to the commissioner upon request. In the event that an education provider ceases operation for any reason, the coordinator is responsible for maintaining the records or providing a custodian for the records acceptable to the commissioner. The coordinator must notify the commissioner of the name and address of that person. In order to be acceptable to the commissioner, custodians must agree to make copies of acknowledgments available to students at a reasonable fee. Under no circumstances will the commissioner act as custodian of the records;

(8) ensuring that the coordinator is available to instructors and students throughout course offerings and providing to the students and instructor the name of the coordinator and a telephone number at which the coordinator can be reached;

(9) attending workshops or instructional programs as reasonably required by the commissioner;

(10) providing course completion certificates within ten days of, but not before, completion of the entire course. Course completion certificates must be completed in their entirety. A coordinator may require payment of the course tuition as a condition for receiving the course completion certificate;

(11) notifying the commissioner immediately of any change in an application for the course, coordinator, or instructor approval application; and

(12) in conjunction with the instructor, assuring and certifying attendance of students enrolled in courses.

Sec. 13. **[45.32] INSTRUCTORS.**

Subdivision 1. **Requirement.** Each course of study, except self-study courses, must have an instructor who is qualified by education, training, or experience to ensure competent instruction. In the case of a self-study course, this requirement applies to the author of the course material. Failure to have only qualified instructors teach at an approved course offering will result in loss of course approval. A person applying for approval as an instructor must make available upon request such records and data required by the commissioner to administer the provisions and further the purposes of this chapter.

Subd. 2. **Qualification for continuing education instructors.** Qualified continuing education instructors must have one of the following qualifications:

(1) a four-year degree in any area plus two years practical experience in the subject area being taught;

(2) five years of practical experience in the subject area being taught; or

(3) a college or graduate degree in the subject area being taught.

Subd. 3. **Qualifications for prelicensing instructors.** Qualified prelicense instructors must have one of the following qualifications:

(1) a four-year degree in the industry for which the course is being taught;

(2) a four-year degree with three years full-time experience in the industry for which the course is being taught;

(3) a four-year degree with three years full-time experience in the business or profession relating to the subject being taught;

(4) a postgraduate degree and completion of 45 hours of continuing education in the industry for which the course is being taught;

(5) a two-year degree in the industry for which the education is being given and completion of 45 hours of continuing education in the industry for which the course is being taught;

(6) a two-year degree or certificate with five years full-time experience in the industry for which the course is being taught;

(7) a degree or certificate with five years full-time experience in the business or profession relating to the subject being taught; or

(8) eight years of experience in the subject area being taught, gained in the eight years immediately preceding the first course offering taught.

Subd. 4. **Responsibilities.** Approved instructors are responsible for:

(1) compliance with all laws and rules relating to industry education;

(2) providing students with current and accurate information;

(3) maintaining an atmosphere conducive to learning in the classroom;

(4) in conjunction with the coordinator, assuring and certifying attendance of students enrolled in courses;

(5) providing assistance to students and responding to questions relating to course materials; and

(6) attending the workshops or instructional programs that are required by the commissioner.

Sec. 14. **[45.33] PROHIBITED PRACTICES FOR COORDINATORS AND INSTRUCTORS.**

Subdivision 1. **Prohibitions.** In connection with an approved course, coordinators and instructors must not:

(1) recommend or promote the services or practices of a particular business;

(2) encourage or recruit individuals to engage the services of, or become associated with, a particular business;

(3) use materials, clothing, or other evidences of affiliation with a particular entity;

(4) require students to participate in other programs or services offered by the instructor, coordinator, or education provider;

(5) attempt, either directly or indirectly, to discover questions or answers on an examination for a license;

(6) disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations;

(7) misrepresent any information submitted to the commissioner;

(8) fail to cover, or ensure coverage of, all points, issues, and concepts contained in the course outline approved by the commissioner during the approved instruction; and

(9) issue inaccurate course completion certificates.

Subd. 2. **Notification of disciplinary action.** Coordinators must notify the commissioner within ten days of a felony or gross misdemeanor conviction or of disciplinary action taken against an occupational license held by the coordinator or an instructor teaching an approved offering. The notification may be grounds to suspend, deny, or revoke the approval of the coordinator and grounds to disallow the use of a particular instructor.

Sec. 15. **[45.34] FEES.**

Fees for approved courses and related materials must be clearly identified to students. In the event that a course is canceled for any reason, all fees must be returned within 15 days from the date of cancellation. In the event that a course is postponed for any reason, students must be given the choice of attending the course at a later date or of having their fees refunded in full. If a student is unable to attend a course or cancels the registration in a course, education provider policies regarding refunds will govern.

Sec. 16. **[45.35] FACILITIES.**

Each course of study, except self-study courses, must be conducted in a classroom or other facility that is adequate to comfortably accommodate the faculty and the number of students enrolled. The education provider may limit the number of students enrolled in a

course. Approved courses must not be held on the premises of a company doing business in the regulated area, except for company-sponsored courses allowed by statute.

Sec. 17. **[45.36] SUPPLEMENTARY MATERIALS.**

An adequate supply of supplementary materials to be used or distributed in connection with an approved course must be available in order to ensure that each student receives all necessary materials. Outlines and any other materials that are reproduced must be legible.

Sec. 18. **[45.37] ADVERTISING COURSES.**

(a) Paragraphs (b) to (f) govern the advertising of prelicense and continuing education courses.

(b) Advertising must be truthful and not deceptive or misleading. Courses must not be advertised in any manner as approved unless approval has been granted in writing by the commissioner.

(c) No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering may be circulated or distributed in this state, unless one of the following statements is prominently displayed:

For prelicense education courses, "This course has been approved by the Minnesota Commissioner of Commerce for (relevant industry) prelicense education."

For continuing education courses, "This course has been approved by the Minnesota Commissioner of Commerce for hours for (relevant industry) continuing education."

(d) Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

(e) Courses must not be advertised before approval, unless the course is described in the advertising as "approval pending" and that is, in fact, the case.

(f) The number of hours for which a course has been approved must be prominently displayed on an advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it must be clear that credit is not earned for the entire course.

Sec. 19. **[45.38] NOTICE TO STUDENTS.**

At the beginning of each approved offering, the following notice must be handed out in printed form or must be read to students: "This educational offering is recognized by the Minnesota Commissioner of Commerce as satisfying hours of credit toward (choose one or more of the following as appropriate: prelicensing or continuing) (insert appropriate industry) education requirements."

Sec. 20. **[45.39] AUDITS.**

The commissioner reserves the right to audit subject offerings with or without notice to the education provider.

Sec. 21. **[45.40] FALSIFICATION OF REPORTS.**

A licensee or applicant found to have falsified an education report to the commissioner will be considered to have violated the laws relating to the industry for which the person has a license and will be subject to suspension or revocation of the license or denial of the application for licensure.

The commissioner reserves the right to audit a licensee's education records.

Sec. 22. **[45.41] DISCIPLINARY ACTION.**

The commissioner may deny, censure, suspend, or revoke the approval of a coordinator or course and disallow the use of a qualified instructor if it is determined that the coordinator, course, or instructor is not in compliance with this chapter.

Sec. 23. **[45.42] WAIVERS AND EXTENSIONS.**

Subdivision 1. **Waivers.** When a licensee documents to the commissioner's satisfaction that the person is unable, and will continue to be unable, to attend actual classroom course work or complete a self-study program because of a physical disability, medical condition, or similar reason, attendance at continuing education courses may be waived for a period not to exceed one year. The commissioner may require that the individual read, listen to, or watch a sufficient number of materials related to that industry as would be necessary for the licensee to satisfy educational credit hour needs. The commissioner will award the licensee credit hours by determining how many credit hours would be granted to a classroom course involving the same material.

Subd. 2. **Extensions.** When a licensee documents to the commissioner's satisfaction that the person is unable to complete continuing education requirements within the required time period owing to a financial or medical hardship, the commissioner may extend, for up to 90 days, the time period during which the continuing education must be successfully completed. Loss of income from either attendance at courses or cancellation of a license is not a bona fide financial hardship. Requests for extensions must be submitted in writing no later than 60 days before the education is due and must include an explanation with verification of the hardship, plus verification of enrollment in an approved course of study.

Subd. 3. **Exception.** This section does not apply to appraiser license education.

Sec. 24. **[45.43] REPORTING REQUIREMENTS.**

Required education must be reported in a manner prescribed by the commissioner within ten days of the course completion.

Sec. 25. Minnesota Statutes 2008, section 60K.31, is amended by adding a subdivision to read:

Subd. 3a. **Fingerprint.** "Fingerprint" means an impression of the lines on the finger taken for purpose of identification.

Sec. 26. Minnesota Statutes 2008, section 60K.36, subdivision 4, is amended to read:

Subd. 4. **Course of study.** The examination must be given only after the applicant has completed a program of ~~classroom~~ studies ~~in a school~~, through classroom study, verifiable self-study, or a combination of both, which must not include a ~~school~~ course sponsored by, offered by, or affiliated with an insurance company or its producers; except that this limitation does not preclude a bona fide professional association of insurance

producers, not acting on behalf of an insurer, from offering courses. The course of study must consist of ~~30 hours of classroom study devoted to the basic fundamentals of insurance for those seeking a Minnesota license for the first time and 7.5~~ 20 hours devoted to the per major line of authority in which the producer seeks to be licensed. The program of studies or study course must have been approved by the commissioner in order to qualify under this subdivision. If the applicant has been previously licensed for the particular line of insurance in the state of Minnesota, the requirement of a program of studies or a study course must be waived. A certification of compliance by the organization offering the course must accompany the applicant's license application. ~~This program of studies in a school or a study course does not apply to limited lines farm property liability applicants or to variable life and variable annuity applicants.~~

Sec. 27. Minnesota Statutes 2008, section 60K.36, is amended by adding a subdivision to read:

Subd. 4a. Exemptions. A prelicensing program of studies does not apply to:

(1) an applicant for the limited lines farm property liability line of authority or the variable life and variable annuity line of authority;

(2) an applicant who has received a two-year Minnesota vocational school degree in insurance;

(3) an applicant who has received a four-year college degree in business with an insurance emphasis;

(4) an applicant for the life line of authority who holds any of the following professional designations or successor designations: Certified Employee Benefit Specialist (CEBS), Chartered Financial Consultant (ChFC), Certified Insurance Counselor (CIC), Certified Financial Planner (CFP), Chartered Life Underwriter (CLU), Fellow of the Life Management Institute (FLMI), or Life Underwriter Training Council Fellow (LUTCF);

(5) an applicant for the health line of authority who holds any of the following professional designations or successor designations: Registered Health Underwriter (RHU), Certified Employee Benefit Specialist (CEBS), Registered Employee Benefits Counselor (REBC), or Health Insurance Associate (HIA); or

(6) an applicant for the Property, Casualty, or Personal Lines P & C lines of authority who provides satisfactory evidence of currently holding any of the following professional designations or successor designations: Accredited Advisor in Insurance (AAI), Associate in Risk Management (ARM), Certified Insurance Counselor (CIC), or Chartered Property and Casualty Underwriter (CPCU).

Sec. 28. **[60K.361] INSURANCE EDUCATION.**

(a) Prelicense education must consist of 20 hours of education per line of authority.

(b) The first ten hours must be an introduction to insurance and insurance-related concepts covering all of the major lines of authority except variable life and variable annuities. The course must consist of the following:

(1) rules, regulations, and law;

(2) basic fundamentals of insurance;

(3) property;

- (i) types of policies;
- (ii) policy provisions;
- (iii) perils, exclusions, deductibles, and liability; and
- (iv) evaluating needs;
- (4) casualty:

- (i) types of policies;
- (ii) policy provisions;
- (iii) perils, exclusions, deductibles, and liability; and
- (iv) evaluating needs;

(5) life:

- (i) types of policies;
- (ii) policy provisions; and
- (iii) group insurance; and
- (6) accident and health:

- (i) types of policies;
- (ii) policy provisions; and
- (iii) group insurance.

(c) The second ten hours of insurance prelicense education must be composed of courses that cover a specific major line of authority and consist of the following:

(1) life:

- (i) types of life insurance policies; and
- (ii) Minnesota laws, rules, and regulations pertinent to life insurance;

(2) accident and health:

- (i) types of health insurance policies; and
- (ii) Minnesota laws, rules, and regulations pertinent to accident and health insurance;

(3) property:

- (i) personal lines;
- (ii) commercial lines; and
- (iii) Minnesota laws, rules, and regulations pertinent to property insurance.

(4) casualty:

- (i) personal lines;
- (ii) commercial lines; and
- (iii) Minnesota laws, rules, and regulations pertinent to casualty insurance; and

(5) personal lines:

- (i) types of property/casualty personal lines insurance policies; and
- (ii) Minnesota laws, rules, and regulations pertinent to property/casualty personal lines insurance.

Sec. 29. Minnesota Statutes 2008, section 60K.37, is amended by adding a subdivision to read:

Subd. 2a. **Criminal history record check; fingerprints.** (a) An individual applying for a resident insurance producer license must:

- (1) consent to a criminal history record check;
- (2) submit a fingerprint card in a form acceptable to the commissioner; and
- (3) pay the fee required to perform criminal history record checks with the Minnesota Bureau of Criminal Apprehension and the Federal Bureau of Investigation.

(b) The commissioner may contract for the collection and transmission of fingerprints required under this chapter and may order the fee for collecting and transmitting fingerprints to be payable directly to the contractor by the applicant. The commissioner may agree to a reasonable fingerprinting fee to be charged by the contractor.

(c) The commissioner must treat and maintain an applicant's fingerprints and any criminal history record information obtained under this chapter as confidential and must apply security measures consistent with the standards specified by the Criminal Justice Information Services Division of the Federal Bureau of Investigation for the electronic storage of fingerprints and necessary identifying information. The commissioner must limit the use of records solely to the purposes authorized in this chapter. The fingerprints and any criminal history record information must not be subject to subpoena, other than one issued in a criminal action or investigation.

(d) The commissioner may receive criminal history record information from another government agency in lieu of the Minnesota Bureau of Criminal Apprehension.

Sec. 30. Minnesota Statutes 2008, section 60K.55, subdivision 2, is amended to read:

Subd. 2. **Licensing fees.** (a) In addition to fees provided for examinations and the technology surcharge required under paragraph (d), each insurance producer licensed under this chapter shall pay to the commissioner a fee of:

(1) \$50 for an initial life, accident and health, property, or casualty license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(2) \$50 for an initial variable life and variable annuity license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(3) \$50 for an initial personal lines license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(4) \$50 for an initial limited lines license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(5) \$200 for an initial license issued to a business entity, and a fee of \$200 for each renewal; and

(6) \$500 for an initial surplus lines license, and a fee of \$500 for each renewal.

(b) Initial licenses issued to a business entity under this chapter are valid for a period not to exceed 24 months and expire on October 31 of the renewal year assigned by the commissioner. Initial licenses issued to an individual insurance producer under this chapter before August 1, 2010, are valid for a period not to exceed 24 months and expire on October 31 of the renewal year assigned by the commissioner. Each individual license initially issued or renewed on or after August 1, 2010, expires on the last day of the birth month of the producer in the year that will result in the term of the license being at least 12 months, but no more than 24 months. Beginning with the first license expiration on the last day of the birth month of an individual producer as set forth in this paragraph, all such licenses must after this date expire biennially on the last day of the birth month of the individual producer that is two years subsequent to the preceding expiration date. Each renewal insurance producer license is valid for a period of 24 months. Licensees who submit renewal applications postmarked or delivered on or before October 15 of the renewal year may continue to transact business whether or not the renewal license has been received by November 1. Licensees who submit applications postmarked or delivered after October 15 of the renewal year must not transact business after the expiration date of the license until the renewal license has been received.

(c) All fees are nonreturnable, except that an overpayment of any fee may be refunded upon proper application.

(d) In addition to the fees required under paragraph (a), individual insurance producers shall pay, for each initial license and renewal, a technology surcharge of up to \$40 under section 45.24, unless the commissioner has adjusted the surcharge as permitted under that section.

Sec. 31. Minnesota Statutes 2008, section 60K.56, is amended to read:

60K.56 CONTINUING INSURANCE EDUCATION.

Subdivision 1. **Definition.** For the purposes of this section, "course" means a course, program of instruction, or seminar of continuing insurance education. A "professional designation examination" means a written, proctored, and graded examination the passage of which leads to a bona fide insurance or financial planning professional designation used by insurance producers.

Subd. 2. **Applicability.** This section applies to all natural persons licensed by this state to sell lines of insurance for which licensing examinations are required.

Subd. 3. **Exemptions.** This section does not apply to persons soliciting or selling solely on behalf of companies organized and operating according to chapter 67A.

Subd. 4. **Powers of the commissioner.** (a) The commissioner shall make the final determination as to accreditation and assignment of credit hours for courses.

(b) The commissioner shall adopt procedures for reporting compliance with the minimum education requirement.

(c) The commissioner ~~shall~~ may adopt rules according to chapter 14 to carry out the purposes of this section.

Subd. 5. **Criteria for course accreditation.** (a) The commissioner may accredit a course only to the extent it is designed to impart substantive and procedural knowledge of the insurance field. The burden of demonstrating that the course satisfies this requirement is on the individual or organization seeking accreditation. ~~The commissioner shall approve~~

~~any educational program approved by Minnesota Continuing Legal Education relating to the insurance field.~~ The commissioner is authorized to establish a procedure for renewal of course accreditation.

(b) The commissioner shall approve or disapprove professional designation examinations that are recommended for approval by the advisory task force. In order for an insurance producer to receive full continuing education credit for a professional designation examination, the producer must pass the examination. A producer may not receive credit for classroom instruction preparing for the professional designation examination and also receive continuing education credit for passing the professional designation examination.

~~(c) The commissioner may not accredit a course:~~

~~(1) that is designed to prepare students for a license examination;~~

~~(2) in sales promotion; or~~

~~(3) in motivation, the art of selling, or psychology.~~

Subd. 6. **Minimum education requirement.** Each person subject to this section shall complete a minimum of ~~30~~ 24 credit hours of courses accredited by the commissioner during each ~~24-month~~ licensing period. ~~Any person whose initial licensing period extends more than six months shall complete 15 hours of courses accredited by the commissioner during the initial license period. Any person teaching or lecturing at an accredited course qualifies for three times the number of credit hours that would be granted to a person completing the accredited course.~~ No more than one-half of the credit hours per licensing period required under this section may be credited to a person for attending ~~any combination of~~ courses either sponsored by, offered by, or affiliated with an insurance company or its agents, ~~or offered using new delivery technology, including computer, interactive technology, and the Internet.~~ For the purposes of this subdivision, a course provided by a bona fide insurance trade association is not considered to be sponsored by, offered by, or affiliated with an insurance company or its agents. A licensee ~~may~~ must obtain ~~up to five~~ three hours of the credit hours per licensing period from a class or classes in the area of ~~professional development including, but not limited to, best practices, ethics, privacy protection, customer/client, personal and safety awareness, software applications, agency management, claims settlement, business perpetuation, and disaster planning.~~ Courses sponsored by, offered by, or affiliated with an insurance company or agent may restrict its students to agents of the company or agency.

Subd. 7. **Waiver of requirements.** ~~(a)~~ The commissioner may grant a waiver or an extension of time up to 90 days to complete the minimum education requirement to an individual upon a showing of good cause. It is the licensed person's responsibility to request a waiver or extension on a form prescribed by the commissioner. As of the day the licensed person properly files a request for a waiver or extension, the license remains in effect until the commissioner notifies the licensed person of the commissioner's decision. The commissioner may approve a waiver or extension subject to any reasonable conditions. The person's license remains in effect during the compliance period determined by the commissioner. If the licensed person fails to comply with any reasonable conditions imposed by the commissioner, the commissioner shall terminate the license. If the request for a waiver or extension is denied by the commissioner, the licensed person shall have 30 days within which to satisfy the minimum education requirement involved in the request

for a waiver or extension. If the minimum education requirement is not satisfied within the compliance period, the commissioner shall terminate the person's license.

~~(b) Upon application on a form prescribed by the commissioner, the commissioner may grant a waiver of the minimum education requirement to a licensee who is no longer actively engaged in the solicitation and sale of insurance. A licensed person seeking a waiver from the requirements of this section may be required to submit information to the commissioner that substantiates the person's retirement or inactive status. A licensed person receiving a waiver from the commissioner may maintain and renew a license but may not solicit or sell new insurance business while this waiver is in effect. A licensee may, for a fee, continue to service an insurance policy for which the licensee is the producer of record, if the policy is in force at the time the waiver is granted. An insurer may not terminate a service contract or refuse to pay compensation because the waiver does not allow the licensee to solicit or sell new insurance.~~

~~For the purposes of receiving renewal commissions and other benefits or compensation from insurers, an agent receiving a waiver under this paragraph is considered to be the holder of a valid insurance producer license in this state.~~

Subd. 8. **Reporting.** (a) After completing the minimum education requirement, each person subject to this section shall file or cause to be filed a compliance report in accordance with the procedures adopted by the commissioner. A producer must not claim credit for continuing education not actually completed at the date of filing the report.

(b) An institution offering an accredited course shall comply with the procedure for reporting compliance adopted by the commissioner.

~~(c) If a person subject to this section completes a nonaccredited course, that person may submit an application of the commissioner for approval of the course accompanied by a fee of not more than \$10 payable to the state of Minnesota for deposit in the general fund. Upon a determination that the course satisfies the criteria for course accreditation, the commissioner may approve the nonaccredited course and shall so inform the person.~~

Subd. 9. **Enforcement.** If a person subject to this section fails to complete the minimum education or reporting requirement or to pay the prescribed fees for any licensing period, no license may be renewed or continued in force for that person for any class of insurance beginning ~~November 1 of the year the day after the renewal was due~~ and that person may not act as an insurance producer until the person has demonstrated to the satisfaction of the commissioner that all requirements of this section have been complied with or that a waiver or extension has been obtained.

Sec. 32. Minnesota Statutes 2008, section 72B.02, subdivision 2, is amended to read:

Subd. 2. **Person.** "Person" means ~~a natural person~~ an individual or business entity.

Sec. 33. Minnesota Statutes 2008, section 72B.02, subdivision 5, is amended to read:

Subd. 5. **Independent adjuster.** "Independent adjuster" means ~~any~~ a person who ~~for another for money, commission or any other thing of value acts as an adjuster on behalf of more than one insurer, or who holds out to do so.~~

(1) is an individual, a business entity, an independent contractor, or an employee of a contractor, who contracts for compensation with insurers or self-insurers;

(2) is treated for tax purposes by the insurer or self-insurer in a manner that is consistent with the tax treatment of an independent contractor rather than the tax treatment of an employee, as defined in the Internal Revenue Code, United States Code, title 26, subtitle C; and

(3) investigates, negotiates, or settles property, casualty, or workers' compensation claims for insurers or for self-insurers.

Sec. 34. Minnesota Statutes 2008, section 72B.02, subdivision 6, is amended to read:

Subd. 6. **Public adjuster.** ~~"Public adjuster" means an adjuster who hires out for employment by members of the public for a fee, commission or any other thing of value, and who, when so employed, acts solely to represent the interests of an insured named in an insurance policy.~~ any person who, for compensation or any other thing of value on behalf of the insured:

(1) acts or aids, solely in relation to first-party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;

(2) advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first-party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or

(3) directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first-party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured.

Sec. 35. Minnesota Statutes 2008, section 72B.02, subdivision 11, is amended to read:

Subd. 11. **Catastrophe or emergency situation.** ~~"Catastrophe or emergency situation" means the occurrence of insured losses of such a number or severity that the ordinary staff adjuster personnel complement of the insurer and the available independent adjusters could not adjust all of the losses resulting from a common cause or related causes in a reasonable time.~~ an event that results in large numbers of deaths or injuries; causes extensive damage or destruction of facilities that provide and sustain human needs; produces an overwhelming demand on state and local response resources and mechanisms; causes a severe long-term effect on general economic activity; or severely affects state, local, and private sector capabilities to begin and sustain response activities. A catastrophe must be declared by the governor of the state, district, or territory in which the catastrophe occurred.

Sec. 36. Minnesota Statutes 2008, section 72B.02, is amended by adding a subdivision to read:

Subd. 15. **Business entity.** "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

Sec. 37. Minnesota Statutes 2008, section 72B.02, is amended by adding a subdivision to read:

Subd. 16. **Fingerprint.** "Fingerprint" means an impression of the lines on the finger taken for purpose of identification.

Sec. 38. Minnesota Statutes 2008, section 72B.02, is amended by adding a subdivision to read:

Subd. 17. **Home state.** "Home state" means the District of Columbia and any state or territory of the United States in which an adjuster maintains his, her, or its principal place of residence or business and is licensed to act as a resident adjuster. If the resident state does not license adjusters for the line of authority sought, the adjuster shall designate as his, her, or its home state any state in which the adjuster is licensed and in good standing.

Sec. 39. Minnesota Statutes 2008, section 72B.02, is amended by adding a subdivision to read:

Subd. 18. **Individual.** "Individual" means a natural person.

Sec. 40. Minnesota Statutes 2008, section 72B.02, is amended by adding a subdivision to read:

Subd. 19. **Insurer.** "Insurer" means an insurance company.

Sec. 41. Minnesota Statutes 2008, section 72B.02, is amended by adding a subdivision to read:

Subd. 20. **Uniform Individual Application.** "Uniform Individual Application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Individual Application for resident and nonresident individuals.

Sec. 42. Minnesota Statutes 2008, section 72B.02, is amended by adding a subdivision to read:

Subd. 21. **Uniform Business Entity Application.** "Uniform Business Entity Application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Business Entity Application for resident and nonresident business entities.

Sec. 43. Minnesota Statutes 2008, section 72B.02, is amended by adding a subdivision to read:

Subd. 22. **Emergency situation.** An "emergency situation" means the occurrence of insured losses of such a number or severity that the ordinary staff adjuster personnel complement of the insurer and the available independent adjusters could not adjust all of the losses resulting from a common cause or related causes in reasonable time.

Sec. 44. Minnesota Statutes 2008, section 72B.03, is amended to read:

72B.03 LICENSES.

Subdivision 1. **Requirement; exceptions.** ~~Except as otherwise provided, no (a) A person shall not act or hold himself or herself out as an independent adjuster, public adjuster, or public adjuster solicitor for money, a commission, or any other thing of value, unless such the person shall first obtain from the commissioner a license. No license shall be required for:~~

~~(1) a person acting in a catastrophe or emergency situation, and who has registered with the commissioner for that purpose;~~

~~(2) a nonresident adjuster who occasionally is in this state to adjust a single loss, provided, however, that if a nonresident adjusts more than six losses in this state in one year the adjuster must qualify for and receive a nonresident's license as provided in sections 72B.01 to 72B.14, and provided the adjuster's domiciliary state affords a like privilege; is licensed as an independent adjuster, public adjuster, or public adjuster solicitor in accordance with this chapter, or is exempt from licensure as an independent adjuster, public adjuster, or public adjuster solicitor under this chapter.~~

(b) The definition of adjuster does not include, and a license as an adjuster is not required of, the following:

(1) attorneys-at-law admitted to practice in this state, when acting in the attorney's professional capacity as an attorney;

(2) a person employed solely to obtain facts surrounding a claim or to furnish technical assistance to a licensed adjuster;

(3) an individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments;

(4) a person who solely performs executive, administrative, managerial, or clerical duties or any combination of these duties and who does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representative;

(5) a licensed health care provider or its employee who provides managed care services so long as the services do not include the determination of compensability;

(6) a managed care organization or any of its employees or an employee of any organization providing managed care services so long as the services do not include the determination of compensability;

(7) a person who settles only reinsurance or subrogation claims;

(8) an officer, director, manager, or employee of an authorized insurer, a surplus lines insurer, a risk retention group, or an attorney-in-fact of a reciprocal insurer;

(9) a United States manager of the United States branch of an alien insurer;

(10) a person who investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims;

(11) an individual employee, under a self-insured arrangement, who adjusts claims on behalf of his or her employer;

(12) a licensed insurance producer, attorney-in-fact of a reciprocal insurer, or managing general agent of the insurer to whom claim authority has been granted by the insurer;

(13) a person authorized to adjust workers' compensation or disability claims under the authority of a third-party administrator license pursuant to section 60A.23, subdivision 8.

Subd. 2. **Classes of licenses.** (a) Unless denied licensure pursuant to section 72B.08, persons who have met the requirements of section 72B.04 must be issued an adjuster license. There shall be four classes of licenses, as follows:

- (1) independent adjuster's license;
- (2) public adjuster's license;
- (3) public adjuster solicitor's license; and
- (4) crop hail adjuster's license.

~~The~~ An independent adjuster and a public adjuster licenses shall be issued in at least three fields each, as follows may qualify for a license in one or more of the following lines of authority:

~~(1) fire and allied lines, inland marine lines and including all perils under homeowners policies property and casualty; or~~

~~(2) all lines written as casualty insurance under section 60A.06, and including workers' compensation; and or~~

~~(3) a combination of the fields described in clauses (1) and (2). Separate licenses shall be required for each field, but the same person may obtain licenses in more than one field. No person shall be licensed as both a public and independent adjuster. The license shall state the class for which the person is licensed and, where applicable, the field in which the person is licensed, and shall state the licensee's name and residence address, the date of issuance and the date of expiration of the license and any other information prescribed by the commissioner which is consistent with the purpose of the license crop.~~

(c) Any person holding a license pursuant to this section is not required to hold any other independent adjuster, public adjuster, insurance, or self-insurance administrator license in this state pursuant to section 60A.23, subdivision 8, or any other provision, provided that the person does not act as an adjuster with respect to life, health, or annuity insurance, other than disability insurance.

(d) An adjuster license remains in effect unless probated, suspended, revoked, or refused as long as the fee set forth in section 72B.04, subdivision 10, is paid and all other requirements for license renewal are met by the due date, otherwise, the license expires.

(e) An adjuster whose license expires may, within 12 months of the renewal date, be reissued an adjuster license upon receipt of the renewal request, as prescribed by the commissioner, however, a penalty in the amount of double the unpaid renewal fee is required to reissue the expired license.

(f) An adjuster who is unable to comply with license renewal procedures and requirements due to military service, long-term medical disability, or some other extenuating circumstance may request a waiver of same and a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

(g) An adjuster is subject to sections 72A.17 to 72A.32.

(h) The adjuster must inform the commissioner by any means acceptable of any change in resident or business addresses for the home state or in legal name within 30 days of the change.

(i) The license must contain the licensee's name, address, and personal identification number; the dates of issuance and expiration; and any other information the commissioner deems necessary.

(j) In order to assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National

Association of Insurance Commissioners, its affiliates, or its subsidiaries, to perform any ministerial functions related to licensing that the commissioner may deem appropriate, including the collection of fees and data.

Subd. 3. **Payment for services; unlawful practice.** No insurer, agent, or other representative of an insurer nor any adjuster shall pay any fee or other compensation to any person for acting as an adjuster, or a public adjuster solicitor, except to a person duly licensed to so act or to a person not required to be licensed by sections 72B.01 to 72B.14; and it shall be unlawful for any person to act as an independent adjuster, a public adjuster or a public adjuster solicitor, who is not duly licensed, or excluded from the licensing requirement.

Sec. 45. **[72B.041] RESIDENT ADJUSTER LICENSE PROCEDURE AND REQUIREMENTS; EXAMINATIONS; FEES.**

Subdivision 1. **Application.** (a) An individual applying for a resident adjuster license must make application to the commissioner on the appropriate National Association of Insurance Commissioners (NAIC) Uniform Individual Application in a format prescribed by the commissioner and declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner must find that the individual:

- (1) is at least 18 years of age;
- (2) is eligible to designate this state as the individual's home state;
- (3) is trustworthy, reliable, and of good reputation, evidence of which must be determined by the commissioner;
- (4) has not committed any act that is a ground for probation, suspension, revocation, or refusal of an adjuster's license as set forth in section 72B.08;
- (5) has successfully passed the examination for the lines of authority for which the individual has applied; and
- (6) has paid the fees set forth in subdivision 9.

An applicant for licensing as a public adjuster solicitor under sections 72B.01 to 72B.14 must be at least 18 years of age, must be competent and trustworthy, and must not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of the application.

In the case of any applicant who has been convicted of a felony within the ten years next preceding the date of the application, and who in the judgment of the commissioner, meets the other qualifications, the commissioner may impose the additional requirement of the filing of a bond in accordance with the requirements of section 72B.08, subdivision 8.

(b) A business entity applying for a resident adjuster license must make application to the commissioner on the appropriate NAIC Uniform Business Entity Application in a format prescribed by the commissioner and declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:

(1) is eligible to designate this state as its home state;

(2) has designated a licensed independent or public adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state;

(3) has not committed an act that is a ground for probation, suspension, revocation, or refusal of an adjuster's license as set forth in section 72B.08; and

(4) has paid the fees set forth in subdivision 9.

Subd. 2. **Criminal history record check; fingerprints.** (a) An individual applying for a resident independent or public adjuster license must:

(1) consent to a criminal history record check;

(2) submit a fingerprint card in a form acceptable to the commissioner; and

(3) pay the fee required to perform criminal history record checks with the Minnesota Bureau of Criminal Apprehension and the Federal Bureau of Investigation.

(b) The commissioner may contract for the collection and transmission of fingerprints required under this chapter and may order the fee for collecting and transmitting fingerprints to be payable directly to the contractor by the applicant. The commissioner may agree to a reasonable fingerprinting fee to be charged by the contractor.

(c) The commissioner must treat and maintain an applicant's fingerprints and any criminal history record information obtained under this chapter as confidential and must apply security measures consistent with the standards specified by the Criminal Justice Information Services Division of the Federal Bureau of Investigation for the electronic storage of fingerprints and necessary identifying information. The commissioner must limit the use of records solely to the purposes authorized in this chapter. The fingerprints and any criminal history record information must not be subject to subpoena, other than one issued in a criminal action or investigation.

(d) The commissioner may receive criminal history record information from another government agency in lieu of the Minnesota Bureau of Criminal Apprehension.

(e) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

(f) All applicants for a license as a public adjuster must attach to their application evidence that the bonding requirement in subdivision 3 has been satisfied.

Subd. 3. **Bonding.** No initial or renewal public adjuster's license shall be issued to any applicant unless there is on file with the commissioner a good and sufficient surety bond, issued by an insurer authorized to do business in this state. The bond shall be in the amount of \$10,000 with the state of Minnesota as obligee, conditioned for the prompt payment to any person entitled thereto, other than a partner or associate of the applicant, of any amounts received by the applicant or to protect any person other than a partner or associate of the applicant from loss resulting from fraud, dishonesty, forgery or theft in connection with the applicant's duties under sections 72B.01 to 72B.14; provided, however, that the aggregate liability of the surety to all persons for all losses shall, in no event, exceed the amount of such bond. The bond shall remain in effect during the term of the license, or until the surety is released from liability by the commissioner, or until canceled by the surety. The surety may cancel a bond, without prejudice to any liability which occurred prior to the cancellation, by giving at least 30 days' written notice to the

commissioner. In the event that the required bond is terminated, the public adjuster's license shall automatically be suspended until a new bond is filed with the commissioner.

Subd. 4. **Examinations.** (a) An individual applying for an independent or public adjuster license under this chapter must pass a written examination unless exempt pursuant to subdivision 5. The examination must test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an independent or public adjuster, and the insurance laws and regulations of this state. Examinations required by this subdivision must be developed and conducted under rules and regulations prescribed by the commissioner.

(b) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations.

(c) An individual who fails to appear for the examination as scheduled or fails to pass the examination must reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

(d) The commissioner may by rule determine the period of time between failure of an examination and reexamination.

(e) A person shall not be eligible to take an examination if that person's license as an independent adjuster or public adjuster has been revoked in this or any other state within the three years next preceding the date of the application.

(f) No examination shall be required for the timely renewal of a license, unless the license has been revoked.

Subd. 5. **Exceptions.** (a) An individual who applies for an adjuster license in this state who is or was licensed in another state for the same lines of authority based on an adjuster examination is not required to complete a prelicensing examination. This exemption is only available if the person is currently licensed in another state or if that state license has expired and the application is received by this state within 90 days of expiration. The applicant must provide certification from the other state that the applicant's license is currently in good standing or was in good standing at the time of expiration or certification from the other state that its producer database records, maintained by the NAIC, its affiliates, or its subsidiaries, indicate that the applicant or the applicant's company is or was licensed in good standing. The certification must be of a license with the same line of authority for which the individual has applied.

(b) A person licensed as an adjuster in another state based on an adjuster examination who establishes legal residency in this state must make application within 90 days to become a resident adjuster licensee pursuant to this section, with the exception that no prelicensing examination is required of this person.

(c) A person who has held a license of any given class or in any field or fields within three years prior to the application shall be entitled to a renewal of the license in the same class or in the same fields without taking an examination.

(d) A person applying for a license as a crop hail adjuster shall not be required to comply with the requirements of subdivision 4.

Subd. 6. **License term.** (a) Initial licenses issued to a business entity under this section are valid for a period not to exceed 24 months. Each initial license must expire on October 31 of the expiration year assigned by the commissioner. Initial licenses issued

to an individual adjuster under this chapter before August 1, 2010, are valid for a period not to exceed 24 months and expire on October 31 of the renewal year assigned by the commissioner. Each individual license initially issued or initially renewed on or after August 1, 2010, must expire on the last day of the birth month of the adjuster in the year that will result in the term of the license being at least 12 months, but no more than 24 months. Beginning with the first license expiration on the last day of the birth month of an individual adjuster as set forth in this subdivision, all such licenses must after this date expire biennially on the last day of the birth month of the individual adjuster that is two years subsequent to the preceding expiration date.

(b) Licenses issued under this section may be renewed upon the timely filing of an application for renewal.

Subd. 7. **Renewal.** An application for renewal of a license issued under sections 72B.01 to 72B.14 shall be on a form prescribed by the commissioner and shall be filed with the commissioner with payment of the renewal fee prior to the expiration date of the license.

Subd. 8. **Notice of changes.** Each licensee or holder of a temporary permit shall give written notice to the commissioner of any change in name, or residence address not later than ten days after such change. The commissioner may, upon receipt of such notice, issue an amendment to the license incorporating such changes.

Subd. 9. **Fees.** A fee of \$50 is imposed for each initial license or temporary permit and \$50 for each renewal thereof or amendment thereto. A fee of \$20 is imposed for the registration of each nonlicensed adjuster who is required to register under section 72B.06. All fees shall be transmitted to the commissioner and shall be payable to the Department of Commerce.

Sec. 46. **[72B.045] CONTINUING EDUCATION.**

Subdivision 1. **Requirement.** An individual who holds an adjuster license and who is not exempt under this section must satisfactorily complete a minimum of 24 hours of continuing education courses, of which three hours must be in ethics, reported to the commissioner on a biennial basis in conjunction with his or her license renewal cycle.

Subd. 2. **Exceptions.** This section does not apply to:

(1) a licensee not licensed for one full year prior to the end of the applicable continuing education biennium; or

(2) a licensee holding a nonresident adjuster license who has met the continuing education requirements of his or her designated home state.

Sec. 47. Minnesota Statutes 2008, section 72B.05, is amended to read:

72B.05 NONRESIDENTS.

~~A nonresident person may become licensed under sections 72B.01 to 72B.14, provided that the person meets all of the requirements of sections 72B.01 to 72B.14, and complies with their provisions, and, on a form prescribed by the commissioner, appoints the commissioner as the attorney upon whom may be served all legal process issued in connection with any action or proceeding brought or pending in this state against or involving the licensee and relating to transactions under the license, the appointment~~

~~shall be irrevocable and shall continue so long as any such action or proceeding could arise or exist.~~

~~Service of process must be made in compliance with section 45.028, subdivision 2.~~ (a) Unless refused licensure pursuant to section 72B.08, a nonresident person shall receive a nonresident adjuster license if:

(1) the person is currently licensed in good standing as an adjuster in his, her, or its resident or home state;

(2) the person has submitted the proper request for licensure and has paid the fees required by section 72B.041, subdivision 9;

(3) the person has submitted or transmitted to the commissioner the appropriate completed application for licensure; and

(4) the person's designated home state awards nonresident adjuster licenses to persons of this state on the same basis.

(b) The commissioner may verify the adjuster's licensing status through any appropriate database, including the producer database maintained by the National Association of Insurance Commissioners, its affiliates, or its subsidiaries, or may request certification of good standing as described in section 72B.041, subdivision 5.

(c) As a condition to the continuation of a nonresident adjuster license, the licensee must maintain a resident adjuster license in his, her, or its home state. The nonresident adjuster license issued under this chapter must terminate and be surrendered immediately to the commissioner if the resident adjuster license terminates for any reason, unless the termination is due to the adjuster being issued a new resident adjuster license in his, her, or its new home state. The new state resident adjuster license must have reciprocity with the licensing nonresident states, otherwise, the nonresident adjuster license must terminate. Notice of resident adjuster license termination must be given to any state that issued a nonresident adjuster license. Notice must be given within 30 days of the termination date, if terminated for change in the resident home state, then the notice must include both the previous and current address. Maintaining a resident adjuster license is required for the nonresident adjuster license to remain valid.

Sec. 48. Minnesota Statutes 2008, section 72B.06, is amended to read:

72B.06 CATASTROPHE ~~OR~~ EMERGENCY SITUATIONS.

~~Any person acting as an independent adjuster in this state in a catastrophe or emergency situation who is not a licensed adjuster, must register with the commissioner within 72 hours of commencing any adjusting assignments. The registration shall be made on such form as the commissioner shall prescribe and shall include the name of the registrant, permanent home address and address for the period during which the registration is effective, the categories of losses being adjusted by the registrant, the name of the licensed independent adjuster or staff adjuster who will be supervising that adjuster, and the name of the insurer or insurers in whose behalf the adjusting is being done. No person shall register or be allowed to adjust losses under this provision unless that person is under the supervision of a staff adjuster or a licensed independent adjuster. The supervising adjuster shall indicate on the registration filing the period of time for which the registration is being made, and no unlicensed person shall undertake to adjust losses after the termination of the registration.~~

~~Each registrant under this section shall promptly give written notice to the commissioner of any change in address while in this state, or any other information stated in the registration statement.~~ (a) In the event of a declared catastrophe or the occurrence of an emergency situation, an insurer must notify the commissioner via an application for registration of each individual, not already licensed in the state where the catastrophe has been declared or an emergency situation has occurred, that will act as an emergency independent adjuster on behalf of the insurer.

(b) A person who is otherwise qualified to adjust claims, but not already licensed in the state where the catastrophe has been declared or an emergency situation has occurred, may act as an emergency independent adjuster and adjust claims, if, within five days of deployment to adjust claims arising from the declared catastrophe or the occurrence of an emergency situation, the insurer notifies the commissioner by providing the following information in a format prescribed by the commissioner:

- (1) the name of the individual;
- (2) the Social Security number of the individual;
- (3) the name of insurer the independent adjuster will represent;
- (4) the effective date of the contract between the insurer and independent adjuster;
- (5) the catastrophe, emergency situation, or loss control number;
- (6) the catastrophe or emergency situation event name; and
- (7) other information the commissioner deems necessary.

(c) An emergency independent adjuster's license or registration remains in force for the period of time established by the commissioner.

The commissioner may summarily suspend or revoke the right of any person adjusting in this state under the authority of this section to continue to adjust in this state, if the commissioner finds that that person has engaged in any of the practices forbidden to a licensed adjuster under sections 72B.01 to 72B.14. Notice of such suspension or revocation may be given personally or by mail sent to the temporary address stated in the registration. ~~A duplicate copy of such notice shall be given to the supervising adjuster.~~

Sec. 49. Minnesota Statutes 2008, section 72B.08, subdivision 1, is amended to read:

Subdivision 1. **Causes.** The commissioner may place on probation, suspend, revoke, or refuse to issue an initial or renewal or renew an adjuster's license or temporary permit or may levy a civil penalty according to section 45.027, subdivision 6, or any combination of the above actions for any of the following causes:

- ~~(a)~~ (1) failure to pass a required examination;
- ~~(b) material~~ (2) obtaining or attempting to obtain a license through misrepresentation or fraud in obtaining or attempting to obtain a license or a temporary permit providing incorrect, misleading, incomplete, or materially untrue information in the license application;
- ~~(c) willful violation of~~ (3) violating any insurance law laws, rules, subpoena, or order of the commissioner or of another state's insurance commissioner or of any provision of sections 72B.01 to 72B.14;

~~(d) misappropriation, conversion or illegal withholding of moneys required to be held in a fiduciary capacity~~ (4) improperly withholding, misappropriating, or converting any money or properties received in the course of doing insurance business;

~~(e) materially~~ (5) intentionally misrepresenting the terms and effect of any an actual or proposed insurance contract or application for insurance, with intent to deceive, or engaging in, or attempting to engage in, any fraudulent transaction with respect to a claim or loss that the licensee or holder of a temporary permit is adjusting and, in the case of a public adjuster solicitor, misrepresenting the services offered or the fees or commission to be charged;

~~(f)~~ (6) conviction of a felony under the laws of this state, any other state, the United States, or any foreign country;

~~(g)~~ (7) the licensee or holder of a temporary permit has demonstrated incompetency or untrustworthiness to act as an adjuster or public adjuster solicitor;

~~(h)~~ (8) refusal to comply with any lawful order of the commissioner;

(9) having admitted or been found to have committed any insurance unfair trade practice or fraud;

(10) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of insurance business in this state or elsewhere;

(11) having an insurance license, or its equivalent, probated, suspended, revoked, or refused in any other state, province, district, or territory;

(12) forging another's name to any document related to an insurance transaction;

(13) cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license;

(14) failing to comply with an administrative or court order imposing a child support obligation; or

(15) failing to pay state income tax or comply with any administrative or court order directing payment of state income tax which remains unpaid.

Sec. 50. Minnesota Statutes 2008, section 72B.08, subdivision 2, is amended to read:

Subd. 2. **Notice.** ~~If an application for a license or temporary permit is rejected by the commissioner, the commissioner shall forthwith give written notice to the person concerned, mailed to that person's last known address. The notice shall state the reason for the action.~~ In the event that the action by the commissioner is to refuse application for licensure or renewal of an existing license, the commissioner must notify the applicant or licensee in writing, advising of the reason for the refusal.

Sec. 51. Minnesota Statutes 2008, section 72B.08, subdivision 4, is amended to read:

Subd. 4. **Suspension or revocation of license or permit.** When the commissioner has information, which if true, would be grounds for suspension, revocation, or refusal to issue a renewal license or a temporary permit, the commissioner may order the licensee or holder of the temporary permit to appear for a hearing pursuant to chapter 14, to determine the facts of the case and to determine whether the license or permit should be suspended or revoked, or whether it should not be renewed. The order shall fix the time and place for

the hearing. After the hearing, the commissioner shall enter an order either dismissing the matter or suspending or revoking the license or temporary permit, or otherwise disposing of the matter as the facts require. Pending the results of the hearing, the licensee or permit holder may continue to act under the license or permit.

The license of a business entity may be probated, suspended, revoked, or refused if the commissioner finds, after a hearing, that:

(1) its designated individual licensee's violation occurred while acting on behalf of or representing the business entity;

(2) the violation was known or should have been known by one or more of the business entity's partners, officers, or managers;

(3) the violation was not reported to the commissioner; and

(4) corrective action was not taken.

In addition to or in lieu of any applicable probation, suspension, revocation, or refusal, a person may, after a hearing, additionally be subject to a civil fine according to section 45.027, subdivision 6.

The commissioner retains the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and section 45.027, subdivision 6, against any person who is under investigation for or charged with a violation of this chapter or sections 72A.17 to 72A.32, even if the person's license or registration has been surrendered or has expired by operation of law.

Sec. 52. **[72B.105] RECORDS OF INDEPENDENT ADJUSTERS TO BE RETAINED.**

An independent adjuster must maintain a copy of each contract between the independent adjuster and the insurer or self-insurer and comply with the record retention policy as agreed to in that contract.

Sec. 53. **[72B.106] STANDARDS OF CONDUCT OF INDEPENDENT ADJUSTERS.**

(a) An independent adjuster must be honest and fair in all communications with the insured, the insurer, and the public.

(b) An independent adjuster must give policyholders and claimants prompt, knowledgeable service and courteous, fair, and objective treatment at all times.

(c) An independent adjuster must not give legal advice and must not deal directly with any policyholder or claimant who is represented by legal counsel without the consent for the legal counsel involved.

(d) An independent adjuster must comply with all local, state, and federal privacy and information security laws, if applicable.

(e) An independent adjuster must identify himself or herself as an independent adjuster and, if applicable, identify his or her employer when dealing with any policyholder or claimant.

(f) An independent adjuster must not have any financial interest in any adjustment or acquire for himself or herself or any person any interest or title in salvage, without first receiving written authority from the principal.

Sec. 54. **[72B.107] REPORTING OF ACTIONS OF ADJUSTER.**

(a) An adjuster must report to the commissioner any administrative action taken against the adjuster in another jurisdiction or by another governmental agency in this state within 30 days of the final disposition of the matter. The report must include a copy of the order or consent order and any other relevant legal documents.

(b) An adjuster must report to the commissioner any criminal action taken against the adjuster in this or any jurisdiction within 30 days of the final disposition of the criminal matter. The report must include a copy of the initial complaint filed, the final order issued by the court, and any other relevant legal documents.

Sec. 55. Minnesota Statutes 2008, section 72B.135, subdivision 1, is amended to read:

Subdivision 1. **Homeowner's Insured's right to cancel.** ~~A homeowner~~ An insured who has entered into a contract with a public adjuster involving the business for which the person was licensed, has the right to cancel the contract within ~~48~~ 72 hours after the contract has been signed. Cancellation is evidenced by the ~~homeowner~~ insured giving written notice of cancellation to the public adjuster at the address stated in the contract. Notice of cancellation, if given by mail, is effective upon deposit in a mailbox, properly addressed to the public adjuster and postage prepaid. Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the ~~homeowner~~ insured not to be bound by the contract.

Sec. 56. Minnesota Statutes 2008, section 72B.135, subdivision 2, is amended to read:

Subd. 2. **Writing required; notice of right to cancel; notice of cancellation.** (a) Before entering a contract referred to in subdivision 1, the public adjuster must:

(1) furnish the ~~homeowner~~ insured with a statement in boldface type of a minimum size of ten points, in substantially the following form:

"You, the ~~homeowner~~ insured, may cancel this contract at any time within ~~48~~ 72 hours after the contract has been signed between the ~~homeowner~~ insured and the public adjuster. See attached notice of cancellation form for an explanation of this right."; and

(2) furnish each ~~homeowner~~ insured, a fully completed form in duplicate, captioned, "NOTICE OF CANCELLATION," which shall be attached to the contract and easily detachable, and which shall contain in boldface type of a minimum size of ten points the following information and statements:

"NOTICE OF CANCELLATION

.....

(enter date of contract)

If you do not want to go forward with the contract with the public adjuster, you may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to (Name of Public Adjuster), at (Address of Public Adjuster's Place of Business) not later than midnight of (Date). If you

cancel, any payments made by you under the contract will be returned within ten business days following receipt by the public adjuster of your cancellation notice.

I HEREBY CANCEL THIS TRANSACTION.

.....
(date)

.....
(Homeowner's Insured's signature)"

Sec. 57. Minnesota Statutes 2008, section 72B.135, subdivision 3, is amended to read:

Subd. 3. **Return of payments; compensation.** Within ten days after a contract referred to in subdivision 1 has been canceled, the public adjuster must tender to the homeowner insured any payments made by the homeowner insured and any note or other evidence of indebtedness. However, if the public adjuster has performed any emergency services within the ~~48-hour~~ 72-hour period, the public adjuster is entitled to compensation for such services. Emergency services shall mean the removal of water, boarding up a building, and reconnecting lights and heat.

Sec. 58. **[72B.136] ESCROW OR TRUST ACCOUNTS.**

A public adjuster who receives, accepts, or holds any funds on behalf of an insured, towards the settlement of a claim for loss or damage, shall deposit the funds in a non-interest-bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster's home state or where the loss occurred.

Sec. 59. **[82.295] EDUCATION; COURSE CURRICULUM.**

Subdivision 1. **Prelicense education.** Prelicense education for a real estate salesperson must consist of Course I, Course II, and Course III as described in this section. Prelicense education for a real estate broker must consist of the broker course as described in this section.

Subd. 2. **Course I.** (a) Introduction to Real Estate, one hour:

(1) overview of course I:

(i) course goals;

(ii) attendance breaks;

(iii) examination policy; and

(iv) course and instructor evaluation;

(2) scope of industry;

(3) areas of specialization;

(4) industry terminology;

(5) professional standards and ethics; and

(6) broker/salesperson relationship.

- (b) Title Closing, six hours:
 - (1) examination of title:
 - (i) history;
 - (ii) examination of abstract;
 - (iii) title insurance:
 - (A) owners;
 - (B) purchasers; and
 - (C) mortgage; and
 - (iv) title registration (torrens);
 - (2) closing:
 - (i) closing checklist;
 - (ii) methods of closing:
 - (A) closing through escrow; and
 - (B) other;
 - (iii) delivery of deed;
 - (iv) responsibilities of buyer and seller:
 - (A) taxes and liens;
 - (B) reduction certificate (assumption statement);
 - (C) insurance;
 - (D) leases;
 - (E) bill of sale;
 - (F) title search;
 - (G) survey;
 - (H) certificate of occupancy;
 - (I) violations (ordinances); and
 - (J) apportionments;
 - (v) adjournment of closing (settlement);
 - (vi) Real Estate Settlement Procedures Act (RESPA):
 - (A) lender requirements;
 - (B) truth in lending (regulation Z); and
 - (C) settlement (closing);
 - (vii) responsibilities of broker;
 - (viii) deeds:
 - (A) parts of a deed:

- 1. parties;
- 2. consideration;
- 3. words of conveyance;
- 4. property description;
- 5. appurtenances;
- 6. habendum (estate);
- 7. execution and acknowledgment; and
- 8. seal;
- (B) delivery;
- (C) recording;
- (D) types of deeds:
 - 1. quitclaim;
 - 2. warranty deed and covenants;
 - 3. special warranty deed; and
 - 4. other;
- (E) covenants running with the land; and
- (F) validity;
- (3) search and examination of title:
 - (i) object of search:
 - (A) chain of title; and
 - (B) recording acts;
 - (ii) grantor-grantee system of indexing:
 - (A) running the chain of title;
 - (B) grantors;
 - (C) mortgages;
 - (D) lis pendens;
 - (E) judgments;
 - (F) liens;
 - (G) taxes;
 - (H) court with probate jurisdiction; and
 - (I) special assessments; and
 - (iii) lot and block indexing.
- (c) Real Estate Law, eight hours:
 - (1) Real estate license law:

- (i) purpose of law and rules;
- (ii) administration of law:
 - (A) Department of Commerce; and
 - (B) penalties for violation; and
- (iii) substantive provisions of law:
 - (A) trust accounts;
 - (B) prohibition of fraudulent, deceptive, or dishonest practices;
 - (C) standards of conduct;
 - (D) Real Estate Research and Recovery Fund; and
 - (E) licensing and education requirements;
- (2) laws relating to agency;
- (3) subdivided land act:
 - (i) scope of law;
 - (ii) registration provisions; and
 - (iii) licensing requirements;
- (4) Securities Act-potential applicability to real estate; and
- (5) appraiser licensing law.
- (d) Basic Law of Contracts, three hours:
 - (1) definition;
 - (2) essentials;
 - (3) breach-remedies;
 - (4) types of real estate contracts:
 - (i) purchase agreement-parties to;
 - (ii) listing agreement-parties to;
 - (iii) contract for deed;
 - (iv) options; and
 - (v) lease; and
 - (5) cancellation.
- (e) Principles of Financing, five hours:
 - (1) types:
 - (i) FHA;
 - (ii) VA;
 - (iii) Conventional/insured conventional;
 - (iv) ARM;

(v) other; and

(vi) points;

(2) sources of mortgage funds:

(i) lenders;

(ii) secondary mortgage market; and

(iii) owner financing; and

(3) usury.

(f) Types and Classifications of Property, four hours:

(1) residential construction, government regulation;

(2) land development and use:

(i) city planning; and

(ii) zoning; and

(3) condominiums, cooperatives, planned unit developments, common interest communities, manufactured housing:

(i) definitions;

(ii) financing;

(iii) licenses required to sell;

(iv) homeowner's associations; and

(v) bylaws.

(g) Environmental Issues, three hours.

Subd. 3. **Course II.** (a) Valuation, three hours:

(1) evaluation vs. appraisal;

(2) methods of valuation:

(i) market approach;

(ii) cost approach; and

(iii) income approach; and

(3) tax value.

(b) Financing Applications, seven hours:

(1) review of course I financing;

(2) mortgages:

(i) legal elements;

(ii) theories:

(A) lien; and

(B) title;

- (iii) mortgage note; and
- (iv) assumption; and
- (3) foreclosure/default.
- (c) Contracts, 16 hours:
 - (1) Review of course I contracts;
 - (2) purchase agreement, essential elements;
 - (3) listing agreement:
 - (i) employment contract - broker; and
 - (ii) essential elements; and
 - (4) contract for deed, essential elements.
- (d) Fair housing, three hours:
 - (1) Federal fair housing laws; and
 - (2) state fair housing laws.
- (e) Real Estate Specialties, one hour.

Subd. 4. **Course III.** Course III must be a 30-hour course consisting of one of the courses in paragraphs (a) to (j).

- (a) Real Estate Appraisal:
 - (1) nature, importance, and purposes of appraisals;
 - (2) nature, importance, and characteristics of property and value;
 - (3) principles controlling real estate value;
 - (4) the appraisal process;
 - (5) economic and neighborhood analysis;
 - (6) considerations and fundamentals of site evaluation;
 - (7) construction methods and materials;
 - (8) architectural styles and utility;
 - (9) cost approach; estimating costs and accrued depreciation;
 - (10) analysis;
 - (11) market data approach;
 - (12) income approach; income and expense analysis, capitalization theory and techniques;
 - (13) reconciliation and final value estimate;
 - (14) writing the report;
 - (15) USPAP; and
 - (16) course examination.
- (b) Closing Procedures:

(1) overview of closing; persons present, protocol, timeliness;

(2) review of purchase agreement, supplements, addendum;

(3) compilation of data needed to prepare a closing file;

(4) legal documents;

(5) abstracts, title procedures;

(6) review of settlement costs; buyer, seller;

(7) closing statement; prorations and other math;

(8) review of sample cases;

(9) follow-up procedures; and

(10) course examination.

(c) Farm and Ranch Brokerage:

(1) responsibilities of broker to seller and buyer;

(2) selling options;

(3) sources of financing;

(4) factors in selecting a farm or ranch;

(5) advantages and disadvantages of irrigation systems;

(6) determination of farm and ranch value;

(7) consideration in the constructing of purchase agreements; and

(8) course examination.

(d) Real Estate Finance:

(1) introduction to the mortgage market;

(2) sources of mortgage money;

(3) real estate investment trusts and syndication;

(4) mortgage banking;

(5) financing residential properties;

(6) financing income producing properties;

(7) construction and land development loans;

(8) special techniques used in financing real estate;

(9) junior mortgages;

(10) land contracts;

(11) financing long-term leases; and

(12) course examination.

(e) Real Estate Investment:

(1) real estate investments;

- (2) discounted cash flow analysis;
- (3) measuring investment returns;
- (4) estimation of real estate cash flows;
- (5) real estate financing;
- (6) the tax process;
- (7) acquisitions and operations;
- (8) dispositions and exchanges;
- (9) after-tax investment analysis;
- (10) speculative land investment;
- (11) multiple exchanges; and
- (12) course examination.
- (f) Real Estate Law:
 - (1) the process of real estate law;
 - (2) real estate brokerage;
 - (3) contract for the sale of real estate;
 - (4) property conveyance;
 - (5) title insurance and closing;
 - (6) property ownership and taxes;
 - (7) estates in land and landlord/tenant relationships;
 - (8) cooperatives, condominiums, and planned unit developments;
 - (9) real estate lending and land use regulations; and
 - (10) course examination.
- (g) Real Estate Management:
 - (1) overview and economics of real estate management;
 - (2) government involvement;
 - (3) the management plan;
 - (4) owner relations and record keeping;
 - (5) marketing and leasing;
 - (6) property operations:
 - (i) tenant administration;
 - (ii) physical plant maintenance; and
 - (iii) staffing and employee relations;
 - (7) residential management:
 - (i) rental housing; and

- (ii) condominiums and cooperatives;
- (8) commercial management:
 - (i) office building and special purpose properties; and
 - (ii) shopping centers and retail properties;
- (9) the management office;
- (10) creative property management; and
- (11) course examination.
- (h) Business Brokerage:
 - (1) business financial statements;
 - (2) financial statement ratio analysis;
 - (3) cash flow, rate of return, and break-even analysis;
 - (4) competitive market analysis;
 - (5) valuation of the business;
 - (6) developing the business plan;
 - (7) qualifying the buyer;
 - (8) terms of the purchase agreement;
 - (9) financing the business opportunity;
 - (10) evaluation of business risk; and
 - (11) course examination.
- (i) Commercial Real Estate:
 - (1) types of commercial properties;
 - (2) introduction to commercial real estate sales;
 - (3) office leasing;
 - (4) industrial leasing;
 - (5) retail leasing;
 - (6) business opportunity sales; and
 - (7) course examination.
- (j) Residential Architecture and Construction:
 - (1) architectural styles and designs;
 - (2) blueprints and plans;
 - (3) construction basics;
 - (4) exteriors;
 - (5) interiors;
 - (6) mechanical systems; and

(7) course examination.

A combination course must consist of no more than three of the preceding ten subjects and must devote at least ten hours to each subject. An education provider that proposes to offer a combination course III must submit to the commissioner, as part of the application for approval, an outline setting forth the subjects to be addressed and the number of hours proposed to be devoted to each topic.

Subd. 5. **Broker course.** The required course for real estate brokers must consist of the subject hours in paragraphs (a) to (j).

(a) Broker Licensing Requirements, three hours:

(1) ownership and operational forms; and

(2) Minnesota License Law Review.

(b) Trust Account Requirements, two hours:

(1) opening the trust account;

(2) deposit requirements; and

(3) trust account records.

(c) Agency, five hours:

(1) current statutes and agency law; and

(2) statutory addenda and disclosures.

(d) Antidiscrimination, three hours:

(1) federal fair housing;

(2) Americans with Disabilities Act; and

(3) Minnesota Human Rights Act.

(e) Real Estate Principles Update, one hour:

(1) land improvement, estates;

(2) legal descriptions;

(3) governmental rights; and

(4) property taxation and special assessments.

(f) Real Estate Sale, Lease, and Transfer, two hours:

(1) purchase agreement and addenda;

(2) lease types and terms;

(3) deed types and clauses; and

(4) contract for deed.

(g) Financing and Valuation Update, three hours:

(1) sources of financing;

(2) foreclosure law;

- (3) principles of value; and
- (4) methods of valuation.
- (h) Broker's Role in Closing, three hours:
 - (1) prorating;
 - (2) closing statements;
 - (3) closing documents; and
 - (4) deposit requirements.
- (i) Income Taxation, three hours:
 - (1) tax rules of home ownership;
 - (2) investment tax issues; and
 - (3) sale of personal residence.
- (j) Employment Laws and Insurance, three hours:
 - (1) Fair Labor Standards Act;
 - (2) tax laws, withholding, reports;
 - (3) independent contractor vs. employee;
 - (4) State and Federal Unemployment Tax Act; and
 - (5) errors and omissions insurance.
- (k) Final Exam.

Sec. 60. Minnesota Statutes 2008, section 82.32, is amended to read:

82.32 LICENSING: CONTINUING EDUCATION AND INSTRUCTION.

(a) All real estate salespersons and all real estate brokers shall be required to successfully complete 30 hours of real estate continuing education, either as a student or a lecturer, in courses of study approved by the commissioner, during the initial license period and during each succeeding 24-month license period. At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period. Licensees may not claim credit for continuing education not actually completed as of the date their report of continuing education compliance is filed.

(b) The commissioner may adopt rules defining the standards for course and instructor approval, and may adopt rules for the proper administration of prelicense instruction as required under section 82.29, subdivision 8, and continuing education as required under this section and sections 82.29; 82.31, subdivisions 5 and 6; 82.33, subdivisions 1 and 4 to 6; and 82.44. The commissioner may not approve a course which can be completed by the student at home or outside the classroom without the supervision of an instructor except accredited courses using new delivery technology, including interactive technology, and the Internet. 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. Courses in motivation, salesmanship, psychology, or time management shall not be approved by the

commissioner for continuing education credit. The commissioner may approve courses in any other subjects, including, but not limited to, communication, marketing, negotiation, and technology for continuing education credit.

~~(c) Any program approved by Minnesota continuing legal education shall be approved by the commissioner of commerce for continuing education for real estate brokers and salespeople if the program or any part thereof relates to real estate.~~

~~(c)~~ (c) As part of the continuing education requirements of this section and sections 82.29; 82.31, subdivisions 5 and 6; 82.33, subdivisions 1 and 4 to 6; and 82.44, the commissioner shall require that all real estate brokers and salespersons receive:

(1) at least one hour of training during each license period in courses in laws or regulations on agency representation and disclosure; and

(2) at least one hour of training during each license period in courses in state and federal fair housing laws, regulations, and rules, other antidiscrimination laws, or courses designed to help licensees to meet the housing needs of immigrant and other underserved populations.

Clauses (1) and (2) do not apply to real estate salespersons and real estate brokers engaged solely in the commercial real estate business who file with the commissioner a verification of this status along with the continuing education report required under paragraph (a).

~~(d)~~ (d) The commissioner is authorized to establish a procedure for renewal of course accreditation.

~~(e)~~ (e) Approved continuing education courses may be sponsored or offered by a broker of a real estate company and may be held on the premises of a company licensed under this chapter. All continuing education course offerings must be open to any interested individuals. Access may be restricted by the ~~sponsor~~ education provider based on class size only. Courses must not be approved if attendance is restricted to any particular group of people. A broker must comply with all continuing education rules prescribed by the commissioner. The commissioner shall not approve any prelicense instruction courses offered by, sponsored by, or affiliated with any person or company licensed to engage in the real estate business.

~~(f)~~ (f) Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

~~(g)~~ (g) The real estate education course completion certificate must be in the form set forth by the commissioner. Students are responsible for maintaining copies of course completion certificates.

(h) An approved prelicense 30-hour broker course may be used for continuing education credit by a real estate salesperson or broker if the course is completed during the appropriate licensing period.

Sec. 61. **[82B.021] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Analysis.** "Analysis" means a study of real estate or real property other than estimating value.

Subd. 3. **Applicant.** "Applicant" means an individual who has applied to the commissioner of commerce pursuant to this chapter for a license as a real estate appraiser.

Subd. 4. **Appraisal assignment.** "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in giving an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of named interests in, or aspects of, identified real estate.

Subd. 5. **Appraisal Foundation or foundation.** "Appraisal Foundation" or "foundation" means the Appraisal Foundation established on November 30, 1987, as a nonprofit corporation under the laws of Illinois.

Subd. 6. **Appraisal or real estate appraisal.** "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of named interests in, or aspects of, identified real estate for purposes of preparing an appraisal report. An appraisal may be classified by subject matter into either a valuation or an analysis.

Subd. 7. **Appraisal report.** "Appraisal report" means an oral or written communication of an appraisal for compensation that is not a contingent fee as defined in section 82B.22 given or signed by a licensed real estate appraiser.

Subd. 8. **Appraisal Standards Board.** "Appraisal Standards Board" means the independent board of the Appraisal Foundation responsible for promulgation of minimum appraisal standards for federally related transactions.

Subd. 9. **Appraiser Qualifications Board.** "Appraiser Qualifications Board" means the independent board of the Appraisal Foundation responsible for promulgation of qualification criteria for licensure of real estate appraisers authorized to conduct appraisals on federally related transactions, and for issuing or endorsing a uniform state real estate appraiser qualification examination.

Subd. 10. **Board.** "Board" means the Real Estate Appraisal Advisory Board established under section 82B.05.

Subd. 11. **Certified general real property appraiser.** "Certified general real property appraiser" means an individual licensed under this chapter to perform appraisals on all types of real property.

Subd. 12. **Certified residential real property appraiser.** "Certified residential real property appraiser" means an individual licensed under this chapter to perform appraisals on one-family to four-family residential units or agricultural property regardless of transaction value or complexity.

Subd. 13. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 14. **Federal Appraisal Subcommittee.** "Federal Appraisal Subcommittee" means the appraisal subcommittee of the Federal Financial Institutions Examinations Council under United States Code, title 12, section 3301 et. seq.

Subd. 15. **Federal financial institutions regulatory agency.** "Federal financial institutions regulatory agency" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration.

Subd. 16. **Federally related transaction.** "Federally related transaction" means any real estate related financial transaction that a federal financial institutions regulatory agency or the federal Resolution Trust Corporation engages in, contracts for, or regulates; and that requires the services of a licensed or certified real estate appraiser.

Subd. 17. **Foundation appraisal organization.** "Foundation appraisal organization" means a member private appraisal trade organization of the Appraisal Foundation including, but not limited to, the following: American Institute of Real Estate Appraisers, American Society of Appraisers, American Society of Farm Managers and Rural Appraisers, International Association of Assessing Officers, International Right of Way Association, National Association of Independent Fee Appraisers, National Society of Real Estate Appraisers, or Society of Real Estate Appraisers.

Subd. 18. **Licensed real property appraiser.** "Licensed real property appraiser" means an individual licensed under this chapter to perform appraisals on noncomplex one-family to four-family residential units or agricultural property having a transactional value of less than \$1,000,000 and complex one-family to four-family residential units or agricultural property having a transactional value of less than \$250,000.

Subd. 19. **Market analysis.** "Market analysis" means a price opinion prepared by a licensed real estate salesperson or broker for marketing purposes.

Subd. 20. **Person.** "Person" means a natural person, firm, institution, partnership, corporation, or association.

Subd. 21. **Real estate.** "Real estate" means an identified parcel or tract of land, including improvements, if any.

Subd. 22. **Real estate appraiser or real property appraiser.** "Real estate appraiser" or "real property appraiser" means a person who develops and communicates appraisals on real property and holds a current, valid license issued under this chapter.

Subd. 23. **Real estate related financial transaction.** "Real estate related financial transaction" means any transaction involving the sale, lease, purchase, investment in, or exchange of real property, including interests in property, or the financing thereof; the refinancing of real property or interests in real property; and the use of real property or interests in property as security for a loan or investments, including mortgage-backed securities.

Subd. 24. **Real property.** "Real property" means one or more defined interests, benefits, and rights inherent in the ownership of real estate.

Subd. 25. **Residential real property or residential real estate.** "Residential real property" or "residential real estate" means property occupied by, or intended to be occupied by, one to four families as their residence.

Subd. 26. **Standards of professional practice.** "Standards of professional practice" means the uniform standards of professional appraisal practice of the Appraisers Standards Board of the Appraisal Foundation in effect as of January 1, 1991, or other version of these standards the commissioner may by order designate.

Subd. 27. **Trainee real property appraiser.** "Trainee real property appraiser" means an individual licensed under this chapter to perform appraisals on residential real property or agricultural acreage which does not require a net income capitalization analysis under the uniform standards of professional appraisal practice.

Subd. 28. **Transaction value.** "Transaction value" means:

(1) for loans or other extensions of credit, the amount of the loan or extension of credit;

(2) for sales, leases, purchases, and investments in or exchanges of real property, the market value of the real property interest involved; and

(3) for the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

Subd. 29. **USPAP.** "USPAP" means the Uniform Standards of Professional Appraisal Practice established by the Appraisal Foundation.

Subd. 30. **Valuation.** "Valuation" means an estimate of value of real estate or real property.

Sec. 62. Minnesota Statutes 2008, section 82B.05, subdivision 1, is amended to read:

Subdivision 1. **Members.** The Real Estate Appraiser Advisory Board consists of 15 members appointed by the commissioner of commerce. Three of the members must be public members, four must be consumers of appraisal services, and eight must be real estate appraisers of whom not less than two members ~~shall~~ must be ~~registered trainee~~ real property appraisers, licensed real property appraisers, or certified residential real property appraisers, not less than two members ~~shall~~ must be certified general real property appraisers, and not less than one member ~~shall~~ must be certified by the Appraisal Qualification Board of the Appraisal Foundation to teach the Uniform Standards of Professional Appraisal Practice. The board is governed by section 15.0575.

Sec. 63. Minnesota Statutes 2008, section 82B.08, is amended by adding a subdivision to read:

Subd. 8. **Cancellation of license.** A real estate appraiser's license must be canceled by the commissioner for failure of a licensee to complete continuing education requirements. In this case, the license must be returned to the commissioner within ten days of receipt of notice of cancellation.

Sec. 64. Minnesota Statutes 2008, section 82B.08, is amended by adding a subdivision to read:

Subd. 9. **Reinstatement of license.** Within two years of a license cancellation, a person who was previously licensed may reinstate the license without examination by completing the required application, paying the required fee for a new license application, and reporting successful completion of all outstanding continuing education requirements for the period during which the license was canceled. The license must be reinstated without reexamination by completing the required instruction, filing an application, and paying the fee for the license within two years of the cancellation date.

Sec. 65. Minnesota Statutes 2008, section 82B.08, is amended by adding a subdivision to read:

Subd. 10. **Withdrawal of license or application.** A licensee or license applicant may at any time file with the commissioner a request to withdraw from the status of licensee or to withdraw a pending license application. Withdrawal from the status of

licensee or withdrawal of the license application becomes effective upon receipt by the commissioner unless a revocation, suspension, or denial proceeding is pending when the request to withdraw is filed or a proceeding to revoke, suspend, deny, or impose condition upon the withdrawal is instituted within 30 days after the request to withdraw is filed. If a proceeding is pending or instituted, withdrawal becomes effective at the time and upon the conditions the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner must institute a revocation or suspension proceeding within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which the license was in effect.

Sec. 66. Minnesota Statutes 2008, section 82B.08, is amended by adding a subdivision to read:

Subd. 11. **Failure to renew license.** If a license lapses or becomes ineffective due to the licensee's failure to timely file a renewal application and the licensee continues to conduct business for which a license is required, the commissioner must institute a revocation or suspension proceeding within two years after the license was last effective and enter a revocation or suspension order as of the last date on which the license was in effect.

Sec. 67. Minnesota Statutes 2008, section 82B.09, is amended by adding a subdivision to read:

Subd. 3. **Fees to federal appraisal subcommittee.** In addition to the fees required for licensure under this section, the commissioner must collect and remit such other fees as are required by the Federal Appraisal Subcommittee.

Sec. 68. Minnesota Statutes 2008, section 82B.10, is amended to read:

82B.10 EXAMINATIONS.

Subdivision 1. **Generally.** (a) An applicant for a license must pass an examination conducted by the commissioner. The examinations must be of sufficient scope to establish the competency of the applicant to act as a real estate appraiser and must conform with the current National Uniform Exam Content Outlines published by the Appraiser Qualifications Board.

(b) A passing grade for a real estate appraiser licensing examination must be the cut score defined by the Appraiser Qualifications Board criteria.

(c) To qualify for a license as a trainee real property appraiser, an applicant must pass a current trainee real property appraiser examination. The examination must test the applicant's knowledge of appraisal terms, principles, theories, and ethics as provided in this chapter.

(d) To qualify for a license as a licensed real property appraiser, an applicant must pass a current uniform licensed real property appraiser examination approved by the Appraiser Qualifications Board. The examination must test the applicant's knowledge of appraisal terms, principles, theories, and ethics as provided in this chapter.

(e) To qualify for a license as a certified residential real property appraiser, an applicant must pass a current uniform certified residential real property appraiser examination approved by the Appraiser Qualifications Board. The examination must test

the applicant's knowledge of appraisal terms, principles, theories, and ethics as provided in this chapter.

(f) To qualify for a license as a certified general real property appraiser, an applicant must pass a current uniform certified general real property appraiser examination approved by the Appraiser Qualifications Board. The examination must test the applicant's knowledge of appraisal terms, principles, theories, and ethics as provided in this chapter.

Subd. 2. **Reexaminations.** An examination must be required before renewal of a license that has been suspended, or before the issuance of a license to a person whose license has been ineffective for a period of two years. No reexamination is required of an individual who has failed to renew an existing license because of absence from the state while on active duty with the armed services of the United States of America.

Subd. 3. **Examination frequency.** The commissioner ~~shall~~ must hold examinations at times and places the commissioner determines.

Subd. 4. **Period for application.** An applicant who obtains an acceptable score on an examination must file an application and obtain the license within two years of the date of successful completion of the examination or a second examination must be taken to qualify for the license.

Subd. 5. **Renewal; examination.** Except as provided in subdivision 2, no examination is required for the renewal of a license. However, a licensee who has been licensed in the state of Minnesota and who fails to renew the license for a period of two years must be required by the commissioner to again take an examination.

Subd. 6. **Examination eligibility; revocation.** No applicant may take an examination if a license as a real estate appraiser has been revoked in this or another state within two years of the date of the application.

Subd. 7. **Reciprocity.** This section may be waived by the commissioner for individuals of other jurisdictions if: (1) a written reciprocal licensing agreement is in effect between the commissioner and the licensing officials of that jurisdiction, (2) the individual is licensed in that jurisdiction, and (3) the licensing requirements of that jurisdiction are substantially similar to the provisions of this chapter.

Subd. 8. **Fees.** The commissioner may assess an examination fee sufficient to recover the actual direct costs of holding the examination.

Subd. 9. **Cheating.** The commissioner must not accept the scores of a person who has cheated on an examination. Cheating on a real estate appraiser examination must be grounds for denying an application for an appraiser's license.

Sec. 69. Minnesota Statutes 2008, section 82B.13, subdivision 4, is amended to read:

Subd. 4. **Certified residential real property appraiser.** As a prerequisite for licensing as a certified residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 120 classroom hours of prelicense courses, with particular emphasis on the appraisal of one to four unit residential properties. Fifteen of the 120 hours must include successful completion of the 15-hour national USPAP course.

After January 1, 2008, a certified residential real property appraiser applicant must present evidence satisfactory to the commissioner that the person has successfully completed:

(1) 200 hours of prelicense courses approved by the commissioner; and

(2) an associate degree from an accredited college or university. In lieu of the required degree the applicant may present satisfactory documentation of completion of 21 semester credit hours from an accredited college or university covering the following subject matter courses: English composition; principles of economics (micro or macro); finance; algebra, geometry, or higher mathematics; statistics; ~~introduction to computer word processing/spreadsheets~~ computer science; and business or real estate law. If an applicant has completed education requirements before January 1, 2008, no college degree is required.

Sec. 70. Minnesota Statutes 2008, section 82B.13, subdivision 5, is amended to read:

Subd. 5. **Certified general real property appraiser.** As a prerequisite for licensing as a certified general real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 180 classroom hours of prelicense courses, with particular emphasis on the appraisal of nonresidential properties. Fifteen of the 180 hours must include successful completion of the 15-hour national USPAP course.

After January 1, 2008, a certified general real property appraiser applicant must present evidence satisfactory to the commissioner that the person has successfully completed:

(1) 300 hours of prelicense courses approved by the commissioner; and

(2) a bachelor's degree from an accredited college or university. In lieu of the required degree the applicant may present satisfactory documentation of completion of 30 semester credit hours from an accredited college or university covering the following subject matters courses: English composition; micro economics; macro economics; finance; algebra, geometry, or higher mathematics; statistics; ~~introduction to computer word processing/spreadsheets~~ computer science; business or real estate law; and two elective courses in accounting, geography, ag-economics, business management, or real estate. If an applicant has complete education requirements before January 1, 2008, no college degree is required.

Sec. 71. Minnesota Statutes 2008, section 82B.13, subdivision 6, is amended to read:

Subd. 6. **All appraiser license levels.** To receive approval from the commissioner, an appraiser prelicense education course must be at least 15 hours long. The required course hours for all appraiser license levels include completion of the 15-hour national USPAP course and specific core curriculum courses and hours in accordance with the real property appraiser qualification criteria as defined by the Appraisal Qualifications Board:

Trainee	
Basic appraisal principles	30 hours
Basic appraisal procedures	30 hours
The 15-hour national USPAP course or its equivalent	15 hours
Trainee level total education requirements	75 hours

Licensed

Basic appraisal principles	30 hours
Basic appraisal procedures	30 hours
The 15-hour national USPAP course or its equivalent	15 hours
Residential market analysis and highest and best use	15 hours
Residential appraiser site valuation and cost approach	15 hours
Residential sales comparison and income approaches	30 hours
Residential report writing and case studies	15 hours
Licensed level total education requirements	150 hours

Certified residential

Basic appraisal principles	30 hours
Basic appraisal procedures	30 hours
The 15-hour national USPAP course or its equivalent	15 hours
Residential market analysis and highest and best use	15 hours
Residential appraiser site valuation and cost approach	15 hours
Residential sales comparison and income approaches	30 hours
Residential report writing and case studies	15 hours
Statistics, modeling, and finance	15 hours
Advanced residential applications and case studies	15 hours
Appraisal subject matter electives	20 hours
(May include hours over minimum shown above in other modules)	
Certified residential level total education requirements	200 hours

Certified general

Basic appraisal principles	30 hours
Basic appraisal procedures	30 hours
The 15-hour national USPAP course or its equivalent	15 hours
General appraiser market analysis and highest and best use	30 hours
Statistics, modeling, and finance	15 hours
General appraiser sales comparison approach	30 hours
General appraiser site valuation and cost approach	30 hours
General appraiser income approach	60 hours
General appraiser report writing and case studies	30 hours
Appraisal subject matter electives	30 hours
(May include hours over minimum shown above in other modules)	
Certified general level total education requirements	300 hours

Sec. 72. **[82B.135] COURSE COMPLETION CERTIFICATIONS FOR REAL ESTATE APPRAISER LICENSE.**

Subdivision 1. **Submitting to commissioner.** An applicant for a real estate appraiser license must submit to the commissioner, along with an application for licensure, a copy of the course completion certificate for all required preclicensing education coursework applicable to the class of license sought.

Subd. 2. **Forms.** The real estate appraiser preclicensing education course completion certificate must be on forms provided by the commissioner.

Subd. 3. **Copies to be maintained.** Students are responsible for maintaining copies of course completion certificates.

Sec. 73. Minnesota Statutes 2008, section 82B.19, subdivision 1, is amended to read:

Subdivision 1. **License renewals.** (a) A licensed real estate appraiser ~~shall~~ **must** present evidence satisfactory to the commissioner of having met the continuing education requirements of this chapter before the commissioner renews a license.

The basic continuing education requirement for renewal of a license is the completion by the applicant either as a student or as an instructor, during the immediately preceding term of licensing, of at least 30 classroom hours of instruction in courses or seminars that have received the approval of the commissioner. Classroom hour credit must not be accepted for courses of less than two hours. As part of the continuing education requirements of this section, the commissioner ~~shall~~ **must** require that all real estate appraisers successfully complete the seven-hour national USPAP update course every two years. If the applicant's immediately preceding term of licensing consisted of ~~12~~ **six** or more months, but fewer than 24 months, the applicant must provide evidence of completion of 15 hours of instruction during the license period. The credit hours required under this section may be credited to a person for distance education courses that meet Appraiser Qualifications Board criteria. An approved preclicensing education course may be taken for continuing education credit.

(b) The 15-hour USPAP course cannot be used to satisfy the requirement to complete the seven-hour national USPAP update course every two years.

(c) Notwithstanding section 326.56, subdivision 2, a licensed real estate appraiser returning from active military duty may be placed in active status for a period of up to 90 days pending completion of all continuing education requirements.

Sec. 74. Minnesota Statutes 2008, section 82B.19, subdivision 2, is amended to read:

Subd. 2. **Rules.** (a) The commissioner may adopt rules to assure that persons renewing their licenses as licensed real estate appraisers have current knowledge of real property appraisal theories, practices, and techniques that will provide a high degree of service and protection to those members of the public with whom they deal in a professional relationship under authority of their license.

(b) To the extent the commissioner considers it appropriate, courses or parts of courses may be considered to satisfy both continuing education requirements under this section and continuing real estate education requirements.

(c) As a prerequisite for course approval, ~~sponsors shall~~ education providers must submit proposed monitoring methods, and systems for recording attendance sufficient to ensure that participants receive course credit only for portions actually attended.

Sec. 75. **[82B.195] STANDARDS OF CONDUCT.**

Subdivision 1. Compliance with uniform standards of professional appraisal practice. In addition to an act compelled or prohibited by this chapter, an appraiser must act according to the standards of professional appraisal practice defined in section 82B.021, subdivision 31.

Subd. 2. Disclosure requirements. In addition to the requirements of the standards of professional appraisal practice as defined by section 82B.021, subdivision 31, an appraiser must, prior to performing any appraisal service which requires licensing pursuant to this chapter, disclose in writing to the person contracting for the appraisal service the information identified in clause (4). In addition, an appraiser must prepare a written disclosure providing the information identified in clauses (1) to (13). The written disclosure must be included as part of the final written appraisal report. As specified in this subdivision, an appraiser must:

(1) disclose who has employed the appraiser;

(2) disclose who the appraisal is rendered for, if not the person who employed the appraiser;

(3) disclose the purpose of the appraisal, including an explanation of the difference between the appraisal being given and an appraisal of fee simple market valuation;

(4) disclose any conflict of interest or situation which might reasonably be perceived to be a conflict of interest which must include, but not be limited to, the following situations:

(i) whether the appraiser has any ownership interest in the subject property or contiguous properties;

(ii) whether there is an ownership interest by a spouse, parent, or child of the appraiser in the property or contiguous properties; and

(iii) whether the appraiser has a continuing business relationship with one of the parties, for example, any part-time or full-time employment of the appraiser, spouse, children living at home, or dependent children.

Failure to promptly give notification of a conflict must be considered a violation of the standards of professional appraisal practice;

(5) disclose that the appraisal is a reevaluation and identify the areas of difference between the two appraisals and the justification for the changes;

(6) disclose any facts concerning the valuation needed for loan purposes or similar information that was provided to the appraiser before or during the appraisal;

(7) disclose that the appraiser has not performed appraisals of the type requested or for the type of property to be appraised as a regular part of the appraiser's business in the preceding five-year period, provided that if the appraiser asserts qualification by training or related experience to perform the appraisal, the appraiser must set forth the training or experience and how it is applicable to the appraisal;

(8) disclose the license classification of the appraiser and the types of appraisals that the appraiser is authorized to conduct under the licensure;

(9) disclose any lack of experience or training that would affect the ability of the appraiser to perform the appraisal or could cause rejection of the appraisal by the party requiring the appraisal;

(10) disclose any appraisal on the same property made by the appraiser in the last three years;

(11) disclose all pertinent assumptions upon which a valuation based upon income from the property is derived such as expected occupancy rates, rental rates, construction of future improvements, roads, or highways;

(12) prior to performing the appraisal, disclose whether the appraiser has previously been to the property; and

(13) disclose any other fact or circumstance that could bring the reliability of the appraisal or the impartiality of the appraiser into question.

Subd. 3. **Additional requirements.** In addition to the requirements of subdivisions 1 and 2, an appraiser must:

(1) not knowingly make any of the following unacceptable appraisal practices:

(i) include inaccurate or misleading factual data about the subject neighborhood, site, improvements, or comparable sales;

(ii) fail to comment on negative factors with respect to the subject neighborhood, subject property, or proximity of the subject property to adverse influences;

(iii) unless otherwise disclosed in the appraisal report, use comparables in the valuation process that the appraiser has not at least personally inspected from the exterior by driving by them;

(iv) select and use inappropriate comparable sales or fail to use comparables that are physically and by location the most similar to the subject property;

(v) use data, particularly comparable sales data, that was provided by parties who have a financial interest in the sale or financing of the subject property without the appraiser's verification of the information from a disinterested source. For example, it would be inappropriate for an appraiser to use comparable sales provided by the builder of the subject property or a real estate broker who is handling the sale of the subject property, unless the appraiser verifies the accuracy of the data provided through another source. If a signed HUD Settlement Statement is used for this verification, the appraiser must also verify the sale data with the buyer or county records. The appraiser must also make an independent investigation to determine that the comparable sales provided were the best ones available;

(vi) use adjustments to the comparable sales that do not reflect the market's reaction to the differences between the subject property and the comparables, or fail to make adjustments when they are clearly indicated;

(vii) develop a valuation conclusion that is based either partially or completely on factors identified in chapter 363A, including race, color, creed, religion, sex, marital status, status with regard to public assistance, disability, sexual orientation, familial status of the

owner or occupants of nearby property, or national origin of either the prospective owners or occupants of the properties in the vicinity of the subject property; or

(viii) develop a valuation conclusion that is not supported by available market data;

(2) provide a resume, current within six months of the date it is provided, to anyone who employs the appraiser, indicating all professional degrees and licenses held by the appraiser; and

(3) reject any request by the person who has employed the appraiser that is in conflict with the requirements of Minnesota law or this chapter and withdraw from the appraisal assignment if the employing party persists in the request.

Subd. 4. **Enforcement.** Failure to comply with the provisions of this section is a prohibited practice under section 82B.20, subdivision 2, clause (17).

Sec. 76. Minnesota Statutes 2008, section 82B.20, is amended by adding a subdivision to read:

Subd. 3. **Revocations.** If the commissioner finds that any licensee or applicant is no longer in existence or has ceased to do business as a real estate appraiser or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the commissioner may by order revoke the license or deny the application of that person.

Sec. 77. **REPEALER.**

(a) Minnesota Statutes 2008, sections 72B.02, subdivision 12; 72B.04; and 82B.02, are repealed.

(b) Minnesota Rules, parts 2808.0100; 2808.1000; 2808.1100; 2808.1200; 2808.1300; 2808.1400; 2808.1500; 2808.1600; 2808.1700; 2808.2000; 2808.2100; 2808.6000; 2808.7000; 2808.7100; 2809.0010; 2809.0020; 2809.0030; 2809.0040; 2809.0050; 2809.0060; 2809.0070; 2809.0080; 2809.0090; 2809.0100; 2809.0110; 2809.0120; 2809.0130; 2809.0140; 2809.0150; 2809.0160; 2809.0170; 2809.0180; 2809.0190; 2809.0200; 2809.0210; and 2809.0220, are repealed.

Sec. 78. **EFFECTIVE DATE.**

Sections 1 to 77 are effective July 1, 2010.

Presented to the governor May 8, 2009

Signed by the governor May 12, 2009, 10:13 p.m.