

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 2062

03/02/2017 Authored by Slocum
The bill was read for the first time and referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act
1.2 relating to commerce; regulating applicants and licensees; amending Minnesota
1.3 Statutes 2016, sections 47.54, subdivision 1; 52.07; 53B.10, subdivision 1; 53B.13;
1.4 58.02, subdivision 18; 58.04, subdivision 1; 58.11, subdivision 2; 58A.02,
1.5 subdivision 8; 58A.03, subdivision 2; 58A.04, by adding a subdivision; 58A.05;
1.6 58A.13; 58A.16, subdivision 1; 332.54; 332.55; 332.57, subdivision 1; proposing
1.7 coding for new law in Minnesota Statutes, chapter 45; repealing Minnesota Statutes
1.8 2016, section 332.57, subdivision 2.

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

1.10 Section 1. [45.18] LICENSEE REGISTRATION WITH NMLS.

1.11 A licensee under sections 47.60; 47.62, subdivision 3; 53.03; 53C.02; 56.02; 59A.03;
1.12 332.30; 332.54; 332A.04; 332B.04; and chapters 53A; 53B; 58; and 58A, must also register
1.13 with and maintain a valid identifier with the Nationwide Multistate Licensing System and
1.14 Registry.

1.15 Sec. 2. Minnesota Statutes 2016, section 47.54, subdivision 1, is amended to read:

1.16 Subdivision 1. **Application.** (a) Any bank desiring to establish a detached facility shall
1.17 execute and acknowledge a written application in the form prescribed by the commissioner
1.18 and shall file the application in the commissioner's office with a fee of \$500. Unless the
1.19 publication requirements of this paragraph do not apply pursuant to paragraph (b), the
1.20 applicant shall within 30 days of the receipt of the form prescribed by the commissioner
1.21 publish a notice of the filing of the application in a qualified newspaper published in the
1.22 municipality in which the proposed detached facility is to be located, and if there is no such
1.23 newspaper, then in a qualified newspaper likely to give notice in the municipality in which
1.24 the proposed detached facility is to be located.

2.1 (b) The publication requirements in paragraph (a) do not apply to an applicant whose
 2.2 application is to establish a detached facility in the same or a similar market as the main
 2.3 banking house with the same business plan in effect if the applicant has received a composite
 2.4 rating of 1 or 2 under the Uniform Financial Institutions Rating System as a result of its
 2.5 most recent federal or state examination.

2.6 Sec. 3. Minnesota Statutes 2016, section 52.07, is amended to read:

2.7 **52.07 FISCAL YEAR; MEETINGS; VOTING.**

2.8 The fiscal year of all credit unions shall end December 31. General and special meetings
 2.9 may be held in the manner and for the purposes indicated in the bylaws. At least ten days
 2.10 before any regular meeting, and at least seven days before any special meeting, written
 2.11 notice shall be mailed or handed to each member, and in the case of a special meeting, the
 2.12 notice shall clearly state the purpose of the meeting and what matters will be considered
 2.13 thereat. No member shall be eligible to vote at any meeting or to hold any office unless the
 2.14 member owns at least one share of the credit union which is fully paid. At all meetings a
 2.15 member shall have but a single vote, whatever the member's share holdings. Upon resolution
 2.16 of the board of directors, credit union members shall be authorized to vote by mail or by
 2.17 electronic means for election of directors, credit committee and supervisory members and
 2.18 amendments to bylaws at annual and special meetings. There shall be no voting by proxy.
 2.19 Any firm, society or corporation having a membership in the credit union and entitled to
 2.20 vote may cast its vote by one person upon presentation of written authority of the firm,
 2.21 society or corporation.

2.22 Sec. 4. Minnesota Statutes 2016, section 53B.10, subdivision 1, is amended to read:

2.23 Subdivision 1. **Investigation.** Upon the filing of a complete application, the commissioner
 2.24 shall investigate the financial condition and responsibility, financial and business experience,
 2.25 character, and general fitness of the applicant. The commissioner may conduct an on-site
 2.26 investigation of the applicant, the reasonable cost of which must be borne by the applicant.
 2.27 If the commissioner finds that the requirements imposed by this chapter have been met and
 2.28 that the required license fee has been paid, the commissioner shall issue a license to the
 2.29 applicant authorizing the applicant to engage in the licensed activities in this state for a an
 2.30 annually renewable term of one year, ending on December 31 of the calendar year the license
 2.31 is issued. If these requirements have not been met, the commissioner shall deny the
 2.32 application in writing, setting forth the reasons for the denial.

3.1 Sec. 5. Minnesota Statutes 2016, section 53B.13, is amended to read:

3.2 **53B.13 CHANGES IN CONTROL OF A LICENSEE.**

3.3 Any purchaser of ten percent or more of an ownership interest in a licensee must notify
 3.4 the commissioner at least 30 days in advance of the purchase and submit a completed license
 3.5 application on a form prescribed by the commissioner. The commissioner may revoke the
 3.6 license if the new ownership would have resulted in a denial of the initial license under this
 3.7 chapter. The commissioner may waive this notification requirement if, in the commissioner's
 3.8 discretion, the change in control does not pose any risk to the interests of the public.

3.9 Sec. 6. Minnesota Statutes 2016, section 58.02, subdivision 18, is amended to read:

3.10 Subd. 18. **Residential mortgage loan.** "Residential mortgage loan" means a loan secured
 3.11 ~~primarily by either: (1) a mortgage on residential real property; or (2) certificates of stock~~
 3.12 ~~or other evidence of ownership interest in and proprietary lease from corporations,~~
 3.13 ~~partnerships, or other forms of business organizations formed for the purpose of cooperative~~
 3.14 ~~ownership of residential real property~~ primarily for personal, family, or household use that
 3.15 is secured by a mortgage, deed of trust, or other equivalent consensual security interest on
 3.16 a dwelling, as defined in United States Code, title 15, section 1602(v), or residential real
 3.17 estate upon which a dwelling is constructed or intended to be constructed.

3.18 Sec. 7. Minnesota Statutes 2016, section 58.04, subdivision 1, is amended to read:

3.19 Subdivision 1. **Residential mortgage originator licensing requirements.** (a) No person
 3.20 shall act as a residential mortgage originator, or make residential mortgage loans without
 3.21 first obtaining a license from the commissioner according to the licensing procedures
 3.22 provided in this chapter.

3.23 (b) A licensee must be either a partnership, limited liability partnership, association,
 3.24 limited liability company, corporation, or other form of business organization, and must
 3.25 have and maintain a surety bond in the amounts prescribed under section 58.08.

3.26 (c) The following persons are exempt from the residential mortgage originator licensing
 3.27 requirements:

3.28 (1) a person who is not in the business of making residential mortgage loans and who
 3.29 makes no more than three such loans, with its own funds, during any 12-month period;

3.30 (2) a financial institution as defined in section 58.02, subdivision 10;

3.31 (3) an agency of the federal government, or of a state or municipal government;

- 4.1 (4) an employee or employer pension plan making loans only to its participants;
- 4.2 (5) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a
- 4.3 specific order issued by a court of competent jurisdiction; ~~or~~
- 4.4 (6) a company that is sponsoring independent loan processors or underwriters; or
- 4.5 ~~(6)~~ (7) a person exempted by order of the commissioner.

4.6 Sec. 8. Minnesota Statutes 2016, section 58.11, subdivision 2, is amended to read:

4.7 Subd. 2. **Timely renewal.** (a) A person whose application is properly and timely filed

4.8 who has not received notice of denial of renewal is considered approved for renewal and

4.9 the person may continue to transact business as a residential mortgage originator or servicer

4.10 whether or not the renewed license has been received on or before January 1 of the renewal

4.11 year. Application for renewal of a license is considered timely filed if received by the

4.12 commissioner by, or mailed with proper postage and postmarked by, December 15 of the

4.13 renewal year. An application for renewal is considered properly filed if made upon forms

4.14 duly executed and sworn to, accompanied by fees prescribed by this chapter, and containing

4.15 any information that the commissioner requires.

4.16 (b) A person who fails to make a timely application for renewal of a license and who

4.17 has not received the renewal license as of January 1 of the renewal year is unlicensed until

4.18 the renewal license has been ~~issued~~ approved by the commissioner ~~and is received by the~~

4.19 ~~person.~~

4.20 Sec. 9. Minnesota Statutes 2016, section 58A.02, subdivision 8, is amended to read:

4.21 Subd. 8. **Nationwide ~~Mortgage~~ Multistate Licensing System and Registry.**

4.22 "Nationwide ~~Mortgage~~ Multistate Licensing System and Registry" means a mortgage

4.23 licensing system developed and maintained by the Conference of State Bank Supervisors

4.24 and the American Association of Residential Mortgage Regulators for the licensing and

4.25 registration of licensed mortgage loan originators.

4.26 Sec. 10. Minnesota Statutes 2016, section 58A.03, subdivision 2, is amended to read:

4.27 Subd. 2. **Exemptions.** The following are exempt from this chapter:

- 4.28 (1) a registered mortgage loan originator, when acting for an entity described in section
- 4.29 58A.02, subdivision 12, clause (1);
- 4.30 (2) an individual who offers or negotiates terms of a residential mortgage loan with or
- 4.31 on behalf of an immediate family member of the individual;

5.1 (3) an individual who offers or negotiates terms of a residential mortgage loan secured
5.2 by a dwelling that served as the individual's residence;

5.3 (4) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf
5.4 of a client as an ancillary matter to the attorney's representation of the client, unless the
5.5 attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator
5.6 or by any agent of the lender, mortgage broker, or other mortgage loan originator; and

5.7 ~~(5) an employee of a nonprofit organization exempt from taxation under section 501(c)(3)~~
5.8 ~~of the Internal Revenue Code of 1986, or a local unit of government, that is not otherwise~~
5.9 ~~engaged in the mortgage loan business, engaged in the financing of housing for low- and~~
5.10 ~~moderate-income households or housing counseling under programs designed specifically~~
5.11 ~~for those purposes, to the extent exempted by the commissioner by rule, advisory ruling,~~
5.12 ~~or interpretation, after taking into consideration any law, rule, advisory ruling, or~~
5.13 ~~interpretation by the United States Department of Housing and Urban Development an~~
5.14 individual exempt from licensing by the states pursuant to United States Code, title 12,
5.15 section 1008.103.

5.16 Sec. 11. Minnesota Statutes 2016, section 58A.04, is amended by adding a subdivision to
5.17 read:

5.18 Subd. 1a. **Change of circumstances.** An applicant for a license shall notify the
5.19 commissioner of every material change in the facts or in the documents on which its
5.20 application is based within ten days of the change.

5.21 Sec. 12. Minnesota Statutes 2016, section 58A.05, is amended to read:

5.22 **58A.05 ISSUANCE OF LICENSE.**

5.23 The commissioner shall not issue a mortgage loan originator license unless the
5.24 commissioner finds at a minimum, that:

5.25 (1) the applicant has never had a mortgage loan originator license revoked in a
5.26 governmental jurisdiction, except that a subsequent formal vacation of a revocation shall
5.27 not be deemed a revocation;

5.28 (2) the applicant has not been convicted of, or pled guilty or nolo contendere to, a felony
5.29 in a domestic, foreign, or military court:

5.30 (i) during the seven-year period preceding the date of the application for licensing and
5.31 registration;

6.1 (ii) at any time preceding the date of application, if the felony involved an act of fraud,
6.2 dishonesty, or a breach of trust, or money laundering; or

6.3 (iii) provided that a pardon of a conviction or an expungement of a conviction is not a
6.4 conviction for purposes of this clause;

6.5 (3) the applicant has demonstrated financial responsibility, character, and general fitness
6.6 such as to command the confidence of the community and to warrant a determination that
6.7 the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes
6.8 of this chapter. For purposes of this chapter, a person has shown that the person is not
6.9 financially responsible when the person has shown a disregard in the management of the
6.10 person's own financial condition. A determination that an individual has not shown financial
6.11 responsibility may include, but is not limited to:

6.12 (i) current outstanding judgments, except judgments solely as a result of medical
6.13 expenses;

6.14 (ii) current outstanding tax liens or other government liens and filings;

6.15 (iii) foreclosures within the past three years; and

6.16 (iv) a pattern of seriously delinquent accounts within the past three years;

6.17 (4) the applicant has completed the prelicensing education requirement described in
6.18 section 58A.06;

6.19 (5) the applicant has passed a written test that meets the test requirement described in
6.20 section 58A.07; and

6.21 (6) the applicant has met the surety bond requirement as required under section 58A.13.

6.22 Sec. 13. Minnesota Statutes 2016, section 58A.13, is amended to read:

6.23 **58A.13 SURETY BOND REQUIRED.**

6.24 Subdivision 1. **Coverage, form, and rules.** (a) Each mortgage loan originator must be
6.25 covered by a surety bond meeting the requirements of ~~this~~ section 58.08. In the event that
6.26 the mortgage loan originator is an employee or exclusive agent of a person subject to this
6.27 chapter, the surety bond of the person subject to this chapter can be used in lieu of the
6.28 mortgage loan originator's surety bond requirement.

6.29 (b) The surety bond shall provide coverage for each mortgage loan originator in an
6.30 amount as prescribed in subdivision 2.

6.31 (c) The surety bond must be in a form as prescribed by the commissioner.

7.1 Subd. 2. **Penal sum of surety bond.** The penal sum of the surety bond must be maintained
 7.2 in an amount ~~that reflects the dollar amount of loans originated as determined by the~~
 7.3 ~~commissioner~~ required by section 58.08, subdivision 1a, paragraph (c).

7.4 Subd. 3. **Action on bond.** When an action is commenced on a ~~licensee's~~ residential
 7.5 mortgage originator bond the commissioner may require the filing of a new bond.

7.6 Subd. 4. **New bond.** Immediately upon recovery upon any action on the bond the licensee
 7.7 shall file a new bond.

7.8 Sec. 14. Minnesota Statutes 2016, section 58A.16, subdivision 1, is amended to read:

7.9 Subdivision 1. **Generally.** It is a violation of this chapter for a person or individual
 7.10 subject to this chapter to:

7.11 (1) directly or indirectly employ any scheme, device, or artifice to defraud or mislead
 7.12 borrowers or lenders or to defraud any person;

7.13 (2) engage in any unfair or deceptive practice toward any person;

7.14 (3) obtain property by fraud or misrepresentation;

7.15 (4) solicit or enter into a contract with a borrower that provides in substance that the
 7.16 person or individual subject to this chapter may earn a fee or commission through "best
 7.17 efforts" to obtain a loan even though no loan is actually obtained for the borrower;

7.18 (5) solicit, advertise, or enter into a contract for specific interest rates, points, or other
 7.19 financing terms unless the terms are actually available at the time of soliciting, advertising,
 7.20 or contracting;

7.21 (6) conduct any business covered by this chapter without holding a valid license as
 7.22 required under this chapter, or assist or aide and abet any person in the conduct of business
 7.23 under this chapter without a valid license as required under this chapter;

7.24 (7) fail to make disclosures as required by this chapter and any other applicable state or
 7.25 federal law or regulations;

7.26 (8) fail to comply with this chapter or rules adopted under this chapter or fail to comply
 7.27 with any other state or federal law or regulations applicable to any business authorized or
 7.28 conducted under this chapter;

7.29 (9) make, in any manner, any false or deceptive statement or representation including,
 7.30 with regard to the rates, points, or other financing terms or conditions for a residential
 7.31 mortgage loan; or engage in bait-and-switch advertising;

8.1 (10) negligently make a false statement or knowingly and willfully make an omission
 8.2 of material fact in connection with any information or reports filed with a governmental
 8.3 agency or the Nationwide Mortgage Licensing System and Registry or in connection with
 8.4 an investigation conducted by the commissioner or another governmental agency;

8.5 (11) make a payment, threat, or promise, directly or indirectly, to a person for the purposes
 8.6 of influencing the independent judgment of the person in connection with a residential
 8.7 mortgage loan, or make a payment threat or promise, directly or indirectly, to an appraiser
 8.8 of a property, for the purposes of influencing the independent judgment of the appraiser
 8.9 with respect to the value of the property;

8.10 (12) collect, charge, attempt to collect or charge, or use or propose an agreement
 8.11 purporting to collect or charge a fee prohibited by this chapter;

8.12 (13) cause or require a borrower to obtain property insurance coverage in an amount
 8.13 that exceeds the replacement cost of the improvements as established by the property insurer;
 8.14 ~~or~~

8.15 (14) fail to truthfully account for money belonging to a party to a residential mortgage
 8.16 loan transaction; or

8.17 (15) fail to include the valid unique identifier issued by the NMLS on all documents and
 8.18 communications including, but not limited to, forms, solicitations, advertisements, business
 8.19 cards, and Web sites.

8.20 Sec. 15. Minnesota Statutes 2016, section 332.54, is amended to read:

8.21 **332.54 REGISTRATION LICENSING.**

8.22 Subdivision 1. **Filing.** It is unlawful for any credit services organization to offer, advertise,
 8.23 or execute or cause to be executed by a consumer any contract in this state unless the credit
 8.24 services organization at the time of the offer, advertisement, sale, or execution of a contract
 8.25 has been properly ~~registered~~ licensed with the commissioner.

8.26 Subd. 2. **Disclosure.** The ~~registration~~ license application must contain the following
 8.27 information:

8.28 (1) the name and address of the credit services organization;

8.29 (2) the name and address of the registered agent authorized to accept service of process
 8.30 on behalf of the credit services organization;

8.31 (3) the name and address of any person who directly or indirectly owns or controls a ten
 8.32 percent or greater interest in the credit services organization;

9.1 (4) the name and address of the surety company that issued the bond required under
9.2 section 332.55; and

9.3 (5) full disclosure of any litigation or unresolved complaint filed within the preceding
9.4 five years with the state, any other state, or the United States relating to the operation of the
9.5 credit services organization, or a notarized statement that there has been no litigation or
9.6 unresolved complaint filed within the preceding five years with the state, any other state,
9.7 or the United States relating to the operation of the credit services organization.

9.8 Subd. 3. **Additional information.** The credit services organization must attach to the
9.9 ~~registration statement~~ license application a copy of the contract which the credit services
9.10 organization intends to execute with its consumers and evidence of the required bond.

9.11 Subd. 4. **Update of information.** The credit services organization must update the
9.12 ~~registration statement~~ information in the license application required under this section not
9.13 later than ~~90~~ 30 days after the date from which a change in the information required in the
9.14 ~~statement~~ application occurs.

9.15 Subd. 5. **Buyer inspection.** Each credit services organization registering under this
9.16 section must maintain a copy of the ~~registration statement~~ license application in its files.
9.17 The credit services organization must allow a buyer to inspect the ~~registration statement~~
9.18 license application on request.

9.19 Subd. 6. **Term.** ~~Registration~~ A license issued or renewed by the commissioner of
9.20 commerce under sections 332.52 to 332.60 expires on June 30 of each year.

9.21 Subd. 7. **Fees.** The fee for a credit services organization's ~~registration~~ license is \$1,000
9.22 for issuance or renewal for each location of business.

9.23 Sec. 16. Minnesota Statutes 2016, section 332.55, is amended to read:

9.24 **332.55 BOND.**

9.25 A credit services organization must submit to the commissioner at the time of ~~registration~~
9.26 licensing, an annual surety bond of \$10,000, expiring on June 30 of each year, by an
9.27 insurance company which is authorized by the state of Minnesota to transact the business
9.28 of fidelity and surety insurance. The credit services organization must be the obligor. The
9.29 bond must benefit the state of Minnesota and any person who may have a cause of action
9.30 against the obligor arising out of the obligor's activities as a credit services organization.
9.31 ~~The commissioner may accept a deposit in cash, or securities that may be legally purchased~~
9.32 ~~by savings banks or for trust funds of an aggregate market value equal to the bond~~

10.1 ~~requirement, in lieu of the surety bond. The cash or securities must be deposited with the~~
10.2 ~~commissioner of management and budget.~~

10.3 Sec. 17. Minnesota Statutes 2016, section 332.57, subdivision 1, is amended to read:

10.4 Subdivision 1. **Requirement.** Before the execution of a contract or agreement between
10.5 the buyer and a credit services organization or before the receipt by the credit services
10.6 organization of any money or other valuable consideration, whichever occurs first, the credit
10.7 services organization shall provide the buyer with a statement in writing containing all of
10.8 the information required ~~by subdivision 2~~ in the disclosure required under United States
10.9 Code, title 15, section 1679c. The credit services organization shall maintain on file for a
10.10 period of two years an exact copy of the statement, personally signed by the buyer,
10.11 acknowledging receipt of a copy of the statement.

10.12 Sec. 18. **REVISOR'S INSTRUCTION.**

10.13 The revisor of statutes shall change the term "Nationwide Mortgage Licensing System
10.14 and Registry" or similar term to "Nationwide Multistate Licensing System and Registry"
10.15 wherever the term appears in Minnesota Statutes, chapter 58A.

10.16 Sec. 19. **REPEALER.**

10.17 Minnesota Statutes 2016, section 332.57, subdivision 2, is repealed.

332.57 DISCLOSURE STATEMENT.

Subd. 2. **Contents.** The disclosure statement required under subdivision 1 must be printed in boldface and in at least 10-point type and must include the following statement:

"CONSUMER CREDIT FILE RIGHTS UNDER MINNESOTA AND FEDERAL LAW

You have a right to obtain a copy of your credit report from a credit bureau. You may be charged a reasonable fee. There is no fee, however, if you have been turned down for credit, employment, insurance, or a rental dwelling because of information in your credit report within the preceding 30 days. The credit bureau must provide someone to help you interpret the information in your credit file.

You have a right to dispute inaccurate information by contacting the credit bureau directly. However, neither you nor any "credit repair" company or credit services organization has the right to have accurate, current, and verifiable information removed from your credit bureau report. Under the federal Fair Credit Reporting Act, the credit bureau must remove accurate, negative information from your report only if it is over seven years old. Bankruptcy can be reported for ten years.

You have a right to sue a credit repair company that violates Minnesota's Credit Services Organization Act. This law prohibits deceptive practices by credit repair companies and gives you a right to cancel your contract for any reason within five working days from the date you signed it.

Credit bureaus are required to follow reasonable procedures to ensure that creditors report information accurately. However, mistakes may occur.

You may, on your own, notify a credit bureau in writing that you dispute the accuracy of information in your credit file. The credit bureau must then reinvestigate and modify or remove inaccurate information. The credit bureau may not charge any fee for this service. Any pertinent information and copies of any documents you have concerning an error should be given to the credit bureau.

If reinvestigation does not resolve the dispute to your satisfaction, you may send a brief statement to the credit bureau to keep in your file, explaining why you think the record is inaccurate. The credit bureau must include your statement about disputed information with any reports it issues about you."