A bill for an act

relating to commerce; regulating fraternal benefit society risk-based capital; making adjustments to dollar amounts as required by state law; providing a method to periodically update Minnesota Statutes to reflect the current dollar amounts as adjusted; amending Minnesota Statutes 2008, sections 47.59, subdivisions 3, 6; 56.12; 56.125, subdivision 2; 56.131, subdivisions 2, 6; 64B.19, by adding a subdivision; 325G.22, subdivision 1; 510.02, subdivision 1; 550.37, subdivisions 4, 4a, 6, 10, 12a, 23, 24; proposing coding for new law in Minnesota Statutes, chapter 64B.

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

ARTICLE 1

FRATERNAL BENEFIT SOCIETIES

Section 1. Minnesota Statutes 2008, section 64B.19, is amended by adding a subdivision to read:

Subd. 4a. **Notice of extra assessments.** In the event that a society intends to make extra assessments, as provided in subdivision 4, it shall provide notice of the assessments it plans to make to the commissioner, and to the commissioner of its state of domicile if it is a foreign society, at least 90 days before the effective date of the assessments.

Sec. 2. **[64B.40] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 64B.40 to 64B.48, the terms defined in this section have the meanings given them.

Subd. 2. **Adjusted risk-based capital report.** "Adjusted risk-based capital report" means a risk-based capital report that has been adjusted by the commissioner according to section 64B.41, subdivision 4.

Subd. 3. **Corrective order.** "Corrective order" means an order issued by the commissioner specifying corrective actions that the commissioner has determined are required.

Subd. 4. **NAIC.** "NAIC" means the National Association of Insurance Commissioners.

Subd. 5. **Negative trend.** "Negative trend" means, with respect to a society, negative trend over a period of time, as determined according to the "trend test calculation" included in the risk-based capital instructions.

Subd. 6. **Risk-based capital instructions.** "Risk-based capital instructions" means the risk-based capital report including risk-based capital instructions adopted by the NAIC, as those risk-based instructions may be amended by the NAIC from time to time according to the procedures adopted by the NAIC.

Subd. 7. **Risk-based capital level.** "Risk-based capital level" means a fraternal action level risk-based capital or fraternal authorized control level risk-based capital where:

(1) "fraternal action level risk-based capital" means the product of 2.0 and its authorized control level risk-based capital; and

(2) "fraternal authorized control level risk-based capital" means the number determined under the risk-based capital formula according to the risk-based capital instructions.

Subd. 8. **Risk-based capital plan.** "Risk-based capital plan" means a comprehensive financial plan containing the elements specified in section 64B.42. If the commissioner rejects the risk-based capital plan, and it is revised by the society, with or without the commissioner's recommendation, the plan must be called the "revised risk-based capital plan."

Subd. 9. **Risk-based capital report.** "Risk-based capital report" means the report required in section 64B.41.

Subd. 10. **Society.** "Society" means a fraternal benefit society that is admitted to do business in this state under this chapter.

Subd. 11. **Total adjusted capital.** "Total adjusted capital" means the sum of:

(1) a society's statutory capital and surplus as determined in accordance with statutory accounting applicable to the annual statement required to be filed under section 60A.13; and

(2) other items, if any, as the risk-based capital instructions may provide.

Sec. 3. **[64B.41] RISK-BASED CAPITAL REPORTS.**

Subdivision 1. **General requirements.** Every society shall, on or before each March 1, prepare and submit to the commissioner a report of its risk-based capital levels as of the end of the calendar year just ended, in a form and containing the information required by the risk-based capital instructions. In addition, every society shall file its risk-based capital report with the NAIC according to the risk-based capital instructions.

Subd. 2. **Specific requirements.** A society's risk-based capital must be determined according to the formula set forth in the risk-based capital instructions. The formula must take into account, and may adjust for the covariance between:

(1) the risk with respect to the society's assets;

(2) the risk of adverse insurance experience with respect to the society's liabilities and obligations;

(3) the interest rate risk with respect to the society's business; and

(4) all other business risks and other relevant risks set forth in the risk-based capital instructions;

determined in each case by applying the factors in the manner set forth in the risk-based capital instructions.

Subd. 3. **Adjusted risk-based capital report.** If a society files a risk-based capital report that in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the risk-based capital report to correct the inaccuracy and shall notify the society of the adjustment. The notice must contain a statement of the reason for the adjustment. A risk-based capital report as so adjusted is referred to as an "adjusted risk-based capital report."

Sec. 4. **[64B.42] FRATERNAL ACTION LEVEL EVENT.**

Subdivision 1. **Definition.** "Fraternal action level event" means, with respect to a society, any of the following events:

(1) the filing of a risk-based capital report by the society that indicates that:

(i) the society's total adjusted capital is greater than or equal to its fraternal authorized control level risk-based capital but less than its fraternal action level risk-based capital; or

(ii) the society's total adjusted capital is greater than or equal to its fraternal action level risk-based capital but less than the product of its fraternal authorized control level risk-based capital and 2.5 and has a negative trend;

(2) the notification by the commissioner to a society of an adjusted risk-based capital report that indicates an event in clause (1), provided the society does not challenge the adjusted risk-based capital report under section 64B.44;

(3) if, pursuant to section 64B.44, the society challenges an adjusted risk-based capital report that indicates an event in clause (1), the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the society's challenge; or

(4) the failure of the society to file a risk-based capital report by March 1, unless the society has provided an explanation for the failure that is satisfactory to the commissioner and has cured the failure within ten days after March 1.

Subd. 2. **Commissioner's duties.** In the event of a fraternal action level event, the commissioner shall:

(1) require the society to prepare and submit a risk-based capital plan, or, if applicable, a revised risk-based capital plan that:

(i) identifies the conditions that contribute to the fraternal action level event;

(ii) contains proposals of corrective actions that the society intends to take and would be expected to result in the elimination of the fraternal action level event;

(iii) provides projections of the society's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projected statutory balance sheets, income statements, and cash flow statements. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense, and benefit component;

(iv) identifies the key assumptions impacting the society's projections and the sensitivity of the projections to the assumptions; and

(v) identifies the quality of, and problems associated with, the society's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case;

(2) examine or analyze as the commissioner considers necessary the assets, liabilities, and operations of the society including reviewing its risk-based capital plan or revised risk-based capital plan; and

(3) subsequent to the examination or analysis, issue a corrective order specifying the corrective actions the commissioner determines are required.

Subd. 3. **Corrective action.** In determining corrective actions, the commissioner may take into account factors considered relevant with respect to the society based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the society, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the risk-based capital instructions. The risk-based capital plan or revised risk-based capital plan must be submitted:

(1) within 45 days after the occurrence of the fraternal action level event;

(2) if the society challenges an adjusted risk-based capital report pursuant to section 64B.44 and the challenge is not frivolous in the judgment of the commissioner, within 45 days after the notification to the society that the commissioner has, after a hearing, rejected the society's challenge; or

(3) if the society challenges a revised risk-based capital plan pursuant to section 64B.44 and the challenge is not frivolous in the judgment of the commissioner, within 45 days after the notification to the society that the commissioner has, after a hearing, rejected the society's challenge.

Subd. 4. **Examination and review.** The commissioner may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the commissioner to review the society's risk-based capital plan or revised risk-based capital plan; examine or analyze the assets, liabilities, and operations of the society; and formulate the corrective order with respect to the society. The fees, costs, and expenses relating to consultants must be borne by the affected society or other party as directed by the commissioner.

Sec. 5. **[64B.43] FRATERNAL AUTHORIZED CONTROL LEVEL EVENT.**

Subdivision 1. **Definition.** "Fraternal authorized control level event" means any of the following events:

(1) the filing of a risk-based capital report by the society that indicates that the society's total adjusted capital is less than its fraternal authorized control level risk-based capital;

(2) the notification by the commissioner to the society of an adjusted risk-based capital report that indicates the event in clause (1), provided the society does not challenge the adjusted risk-based capital report under section 64B.44;

(3) if, pursuant to section 64B.44, the society challenges an adjusted risk-based capital report that indicates the event in clause (1), notification by the commissioner to the society that the commissioner has, after a hearing, rejected the society's challenge;

(4) the failure of the society to respond, in a manner satisfactory to the commissioner, to a corrective order, provided the society has not challenged the corrective order under section 64B.44;

(5) if the society has challenged a corrective order under section 64B.44 and the commissioner has, after a hearing, rejected the challenge or modified the corrective order, the failure of the society to respond, in a manner satisfactory to the commissioner, to the corrective order subsequent to rejection or modification by the commissioner;

(6) the failure of the society to submit a risk-based capital plan to the commissioner within the time period in section 64B.42;

(7) notification by the commissioner to the society that:

(i) the risk-based capital plan or revised risk-based capital plan submitted by the society is, in the judgment of the commissioner, unsatisfactory; and

(ii) the society has not challenged the determination under section 64B.44;

(8) if, pursuant to section 64B.44, the society challenges a determination by the commissioner under the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the challenge;

(9) notification by the commissioner to the society that the society has failed to adhere to its risk-based capital plan or revised risk-based capital plan, but only if the failure has a substantial adverse effect on the ability of the society to eliminate the fraternal action level event according to its risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification, provided the society has not challenged the determination under section 64B.44; or

(10) if, pursuant to section 64B.44, the society challenges a determination by the commissioner under clause (9), the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the challenge.

Subd. 2. **Commissioner's duties.** In the event of a fraternal authorized control level event with respect to a society, the commissioner shall:

(1) take the actions required under section 64B.42 regarding a society with respect to which a fraternal action level event has occurred; or

(2) if the commissioner considers it to be in the best interests of the certificate holders of the society, require the society to take one or more of the following actions:

(i) merge or otherwise consolidate with another willing authorized society;

(ii) cede any individual risk or risks, in whole or in part, to a willing society or life insurer;

(iii) suspend the issuance of new business; and

(iv) discontinue its insurance operations; or

(3) take the actions necessary to cause the society to be placed under regulatory control under chapter 60B. In the event the commissioner takes these actions, the fraternal authorized control level event is considered sufficient grounds for the commissioner to take action under chapter 60B, and the commissioner has the rights, powers, and duties with respect to the society set forth in chapter 60B. In the event the commissioner takes actions under this clause pursuant to an adjusted risk-based capital report, the society

is entitled to the protections afforded to societies under section 60B.11 pertaining to summary proceedings.

Sec. 6. **[64B.44] HEARINGS.**

Upon notification to a society by the commissioner:

(1) that the risk-based capital report is being adjusted by the commissioner;

(2) that the society's risk-based capital plan or revised risk-based capital plan is unsatisfactory, and that the notification constitutes a fraternal action level event or fraternal authorized control level event with respect to the society;

(3) that the society has failed to adhere to its risk-based capital plan or revised risk-based capital plan and that the failure has substantial adverse effect on the ability of the society to eliminate the fraternal action level event with respect to the society according to its risk-based capital plan or revised risk-based capital plan; or

(4) that a corrective order will be issued with respect to the society;

the society has the right to a contested case hearing conducted in accordance with chapter 14, on a record, at which the society may challenge a determination or action by the commissioner. The society shall notify the commissioner of its request for a hearing within five days after the notification by the commissioner under clause (1), (2), (3), or (4). Upon receipt of the society's request for a hearing, the commissioner shall set a date for the hearing no less than ten nor more than 30 days after the date of the society's request.

Sec. 7. **[64B.45] PROHIBITION ON ANNOUNCEMENTS.**

Except as otherwise required under sections 64B.40 to 64B.48, the making, publishing, dissemination, circulating, or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the risk-based capital levels of a society, or of any component derived in the calculation, by a society, agent, broker, or other person engaged in any manner in the insurance business would be misleading and is prohibited.

Sec. 8. **[64B.46] SUPPLEMENTAL PROVISIONS.**

Sections 64B.40 to 64B.48 are supplemental to other laws of this state and do not preclude or limit other powers or duties of the commissioner under those laws, including, but not limited to, chapters 60B and 60G.

Sec. 9. **[64B.47] IMMUNITY.**

There is no liability on the part of, and no cause of action arises against, the commissioner or the Department of Commerce or its employees or agents for an action taken by them in the performance of their powers and duties under sections 64B.40 to 64B.48.

Sec. 10. **[64B.48] NOTICES.**

All notices by the commissioner to a society that may result in regulatory action under sections 64B.40 to 64B.48 are effective upon dispatch if transmitted by registered or certified mail, or, in the case of other transmission, are effective upon the society's receipt of the notice.

ARTICLE 2

ADJUSTMENTS TO DOLLAR AMOUNTS IN MINNESOTA STATUTES

Section 1. Minnesota Statutes 2008, section 47.59, subdivision 3, is amended to read:

Subd. 3. **Finance charge for loans.** (a) With respect to a loan, including a loan pursuant to open-end credit but excluding open-end credit pursuant to a credit card, a financial institution may contract for and receive a finance charge on the unpaid balance of the principal amount not to exceed the greater of:

(1) an annual percentage rate not exceeding 21.75 percent; or

(2) the total of:

(i) 33 percent per year on that part of the unpaid balance of the principal amount not exceeding ~~$750~~ $1,050; and

(ii) 19 percent per year on that part of the unpaid balance of the principal amount exceeding ~~$750~~ $1,050.

With respect to open-end credit pursuant to a credit card, the financial institution may contract for and receive a finance charge on the unpaid balance of the principal amount at an annual percentage rate not exceeding 18 percent per year.

(b) On a loan where the finance charge is calculated according to the method provided for in paragraph (a), clause (2), the finance charge must be contracted for and earned as provided in that provision or at the single annual percentage rate computed to the nearest one-tenth of one percent that would earn the same total finance charge at maturity of the contract as would be earned by the application of the graduated rates provided in paragraph (a), clause (2), when the debt is paid according to the agreed terms and the calculations are made according to the actuarial method.

(c) With respect to a loan, the finance charge must be considered not to exceed the maximum annual percentage rate permitted under this section if the finance charge contracted for and received does not exceed the equivalent of the maximum annual percentage rate calculated in accordance with Code of Federal Regulations, title 12, part 226, but using the definition of finance charge provided in this section.

(d) This subdivision does not limit or restrict the manner of calculating the finance charge, whether by way of add-on, discount, discount points, precomputed charges, single annual percentage rate, variable rate, interest in advance, compounding, average daily balance method, or otherwise, if the annual percentage rate does not exceed that permitted by this section. Discount points permitted by this paragraph and not collected but included in the principal amount must not be included in the amount on which credit insurance premiums are calculated and charged.

(e) With respect to a loan secured by real estate, if a finance charge is calculated or collected in advance, or included in the principal amount of the loan, and the borrower prepays the loan in full, the financial institution shall credit the borrower with a refund of the charge to the extent that the annual percentage rate yield on the loan would exceed the maximum rate permitted under paragraph (a), taking into account the prepayment. The refund need not be made if it would be less than ~~$5~~ $7.

(f) With respect to all other loans, if the finance charge is calculated or collected in advance, or included in the principal amount of the loan, and the borrower prepays the loan in full, the financial institution shall credit the borrower with a refund of the charge to the extent the annual percentage rate yield on the loan would exceed the annual percentage rate on the loan as originally determined under paragraph (a) and taking into account the prepayment. The refund need not be made if it would be less than ~~$5~~ $7.

(g) For the purpose of calculating the refund under this subdivision, the financial institution may assume that the contract was paid before the date of prepayment according to the schedule of payments under the loan and that all payments were paid on their due dates.

(h) For loans repayable in substantially equal successive monthly installments, the financial institution may calculate the refund under paragraph (f) as the portion of the finance charge allocable on an actuarial basis to all wholly unexpired payment periods following the date of prepayment, based on the annual percentage rate on the loan as originally determined under paragraph (a), and for the purpose of calculating the refund may assume that all payments are made on the due date.

(i) The dollar amounts in this subdivision and subdivision 6, paragraph (a), clause (4), shall change periodically, as provided in this section, according to and to the extent of

changes in the implicit price deflator for the gross domestic product, ~~1987~~ 2000 = 100, compiled by the United States Department of Commerce, and hereafter referred to as the index. The index for December ~~1991~~ 2007 is the reference base index for adjustments of dollar amounts.

(j) The designated dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for December of the preceding year and the reference base index is ten percent or more; but

(1) the portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts appearing in Laws 1995, chapter 202, on May 24, 1995; and

(2) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to Laws 1995, chapter 202, as a result of earlier application of this section.

(k) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the Department of Commerce. If the index is superseded, the index referred to in this section is the one represented by the Department of Commerce as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(l) The commissioner shall ~~announce and publish~~:

(1) announce and publish on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by paragraph (j); ~~and~~

(2) announce and publish promptly after the changes occur, changes in the index required by paragraph (k) including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index~~.~~; and

(3) promptly notify the revisor of statutes in writing of the changes announced and published by the commissioner pursuant to clauses (1) and (2). The revisor shall publish the changes in the next edition of Minnesota Statutes.

(m) A person does not violate this chapter with respect to a transaction otherwise complying with this chapter if that person relies on dollar amounts either determined according to paragraph (j), clause (2), or appearing in the last publication of the commissioner announcing the then current dollar amounts.

(n) The adjustments provided in this section shall not be affected unless explicitly provided otherwise by law.

Sec. 2. Minnesota Statutes 2008, section 47.59, subdivision 6, is amended to read:

Subd. 6. **Additional charges.** (a) For purposes of this subdivision, "financial institution" includes a person described in subdivision 4, paragraph (a). In addition to the finance charges permitted by this section, a financial institution may contract for and receive the following additional charges that may be included in the principal amount of the loan or credit sale unpaid balances:

(1) official fees and taxes;

(2) charges for insurance as described in paragraph (b);

(3) with respect to a loan or credit sale contract secured by real estate, the following "closing costs," if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section:

(i) fees or premiums for title examination, abstract of title, title insurance, surveys, or similar purposes;

(ii) fees for preparation of a deed, mortgage, settlement statement, or other documents, if not paid to the financial institution;

(iii) escrows for future payments of taxes, including assessments for improvements, insurance, and water, sewer, and land rents;

(iv) fees for notarizing deeds and other documents;

(v) appraisal and credit report fees; and

(vi) fees for determining whether any portion of the property is located in a flood zone and fees for ongoing monitoring of the property to determine changes, if any, in flood zone status;

(4) a delinquency charge on a payment, including the minimum payment due in connection with open-end credit, not paid in full on or before the tenth day after its due date in an amount not to exceed five percent of the amount of the payment or ~~$5.20~~ $7.28, whichever is greater;

(5) for a returned check or returned automatic payment withdrawal request, an amount not in excess of the service charge limitation in section 604.113, except that, on a loan transaction that is a consumer small loan as defined in section 47.60, subdivision 1, paragraph (a), in which cash is advanced in exchange for a personal check, the civil penalty provisions of section 604.113, subdivision 2, paragraph (b), may not be demanded or assessed against the borrower; and

(6) charges for other benefits, including insurance, conferred on the borrower that are of a type that is not for credit.

(b) An additional charge may be made for insurance written in connection with the loan or credit sale contract, which may be included in the principal amount of the loan or credit sale unpaid balances:

(1) with respect to insurance against loss of or damage to property, or against liability arising out of the ownership or use of property, if the financial institution furnishes a clear, conspicuous, and specific statement in writing to the borrower setting forth the cost of the insurance if obtained from or through the financial institution and stating that the borrower may choose the person through whom the insurance is to be obtained;

(2) with respect to credit insurance or mortgage insurance providing life, accident, health, or unemployment coverage, if the insurance coverage is not required by the financial institution, and this fact is clearly and conspicuously disclosed in writing to the borrower, and the borrower gives specific, dated, and separately signed affirmative written indication of the borrower's desire to do so after written disclosure to the borrower of the cost of the insurance; and

(3) with respect to the vendor's single interest insurance, but only (i) to the extent that the insurer has no right of subrogation against the borrower; and (ii) to the extent that the insurance does not duplicate the coverage of other insurance under which loss is payable to the financial institution as its interest may appear, against loss of or damage to property for which a separate charge is made to the borrower according to clause (1); and (iii) if a clear, conspicuous, and specific statement in writing is furnished by the financial institution to the borrower setting forth the cost of the insurance if obtained from or through the financial institution and stating that the borrower may choose the person through whom the insurance is to be obtained.

(c) In addition to the finance charges and other additional charges permitted by this section, a financial institution may contract for and receive the following additional charges in connection with open-end credit, which may be included in the principal amount of the loan or balance upon which the finance charge is computed:

(1) annual charges, not to exceed $50 per annum, payable in advance, for the privilege of opening and maintaining open-end credit;

(2) charges for the use of an automated teller machine;

(3) charges for any monthly or other periodic payment period in which the borrower has exceeded or, except for the financial institution's dishonor would have exceeded, the maximum approved credit limit, in an amount not in excess of the service charge permitted in section 604.113;

(4) charges for obtaining a cash advance in an amount not to exceed the service charge permitted in section 604.113; and

(5) charges for check and draft copies and for the replacement of lost or stolen credit cards.

(d) In addition to the finance charges and other additional charges permitted by this section, a financial institution may contract for and receive a onetime loan administrative fee not exceeding $25 in connection with closed-end credit, which may be included in the principal balance upon which the finance charge is computed. This paragraph applies only to closed-end credit in an original principal amount of ~~$4,320~~ $6,048 or less. The determination of an original principal amount must exclude the administrative fee contracted for and received according to this paragraph.

Sec. 3. Minnesota Statutes 2008, section 56.12, is amended to read:

56.12 ADVERTISING; TAKING OF SECURITY; PLACE OF BUSINESS.

No licensee shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action which is false, misleading, or deceptive. The commissioner may order any licensee to desist from any conduct which the commissioner shall find to be a violation of the foregoing provisions.

The commissioner may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as the commissioner may deem necessary to prevent misunderstanding thereof by prospective borrowers. In lieu of the disclosure requirements of this section and section 56.14, a licensee may give the disclosures required by the federal Truth-in-Lending Act.

A licensee may take a lien upon real estate as security for any loan exceeding ~~$4,320~~ $6,048 in principal amount made under this chapter. The provisions of sections 47.20 and 47.21 do not apply to loans made under this chapter, except as provided in this section. No loan secured by a first lien on a borrower's primary residence shall be made pursuant to this section if the proceeds of the loan are used to finance the purchase of the borrower's primary residence, unless:

(1) the proceeds of the loan are used to finance the purchase of a manufactured home or a prefabricated building; or

(2) the proceeds of the loan are used in whole or in part to satisfy the balance owed on a contract for deed.

If the proceeds of the loan are used to finance the purchase of the borrower's primary residence, the licensee shall consent to the subsequent transfer of the real estate if the existing borrower continues after transfer to be obligated for repayment of the entire remaining indebtedness. The licensee shall release the existing borrower from all obligations under the loan instruments, if the transferee (1) meets the standards of credit worthiness normally used by persons in the business of making loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the property used as collateral, and (2) executes an agreement in writing with the licensee whereby the transferee assumes the obligations of the existing borrower under the loan instruments. Any such agreement shall not affect the priority, validity or enforceability of any loan instrument. A licensee may charge a fee not in excess of one-tenth of one percent of the remaining unpaid principal balance in the event the loan is assumed by the transferee and the existing borrower continues after the transfer to be obligated for repayment of the entire assumed indebtedness. A licensee may charge a fee not in excess of one percent of the remaining unpaid principal balance in the event the remaining indebtedness is assumed by the transferee and the existing borrower is released from all obligations under the loan instruments, but in no event shall the fee exceed ~~$240~~ $336.

A licensee making a loan under this chapter secured by a lien on real estate shall comply with the requirements of section 47.20, subdivision 8.

No licensee shall conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, if the commissioner finds that the character of the other business is such that it would facilitate evasions of this chapter or of the rules lawfully made hereunder. The commissioner may promulgate rules dealing with such other businesses.

No licensee shall transact the business or make any loan provided for by this chapter under any other name or at any other place of business than that named in the license. No licensee shall take any confession of judgment or any power of attorney. No licensee shall take any note or promise to pay that does not accurately disclose the principal amount of the loan, the time for which it is made, and the agreed rate or amount of charge, nor any instrument in which blanks are left to be filled in after execution. Nothing herein is deemed to prohibit the making of loans by mail or arranging for settlement and closing of real estate secured loans by an unrelated qualified closing agent at a location other than the licensed location.

Sec. 4. Minnesota Statutes 2008, section 56.125, subdivision 2, is amended to read:

Subd. 2. **Real estate as security.** A licensee may take a lien upon real estate as security for any open-end loan at or after such time as the outstanding balance first exceeds ~~$4,320~~ $6,048. A subsequent reduction in the balance below ~~$4,320~~ $6,048 has no effect on the lien. A licensee may retain the security interest until it terminates the open-end account. If there is no outstanding balance in the account and there is no commitment by the licensee to a line of credit in excess of ~~$4,320~~ $6,048, the licensee shall, within 20 days following written demand by the borrower, deliver to the borrower a release of the mortgage on any real property taken as security for the open-end loan agreement. A real estate mortgage authorized for a financial institution secures all advances and obligations thereunder from the date of recording.

Sec. 5. Minnesota Statutes 2008, section 56.131, subdivision 2, is amended to read:

Subd. 2. **Additional charges.** In addition to the charges provided for by this section and section 56.155, and notwithstanding section 47.59, subdivision 6, to the contrary, no further or other amount whatsoever, shall be directly or indirectly charged, contracted for, or received for the loan made, except actual out of pocket expenses of the licensee to realize on a security after default, and except for the following additional charges which may be included in the principal amount of the loan:

(a) lawful fees and taxes paid to any public officer to record, file, or release security;

(b) with respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section; provided the costs do not exceed one percent of the principal amount or ~~$400~~ $560, whichever is greater:

(1) fees or premiums for title examination, abstract of title, title insurance, surveys, or similar purposes;

(2) fees, if not paid to the licensee, an employee of the licensee, or a person related to the licensee, for preparation of a mortgage, settlement statement, or other documents, fees for notarizing mortgages and other documents, and appraisal fees;

(c) the premium for insurance in lieu of perfecting and releasing a security interest to the extent that the premium does not exceed the fees described in paragraph (a);

(d) discount points and appraisal fees may not be included in the principal amount of a loan secured by an interest in real estate when the loan is a refinancing for the purpose of bringing the refinanced loan current and is made within 24 months of the original date of the refinanced loan. For purposes of this paragraph, a refinancing is not considered to be for the purpose of bringing the refinanced loan current if new funds advanced to the customer, not including closing costs or delinquent installments, exceed ~~$1,000~~ $1,400;

(e) the onetime loan administrative fee in section 47.59, subdivision 6, paragraph (d).

Sec. 6. Minnesota Statutes 2008, section 56.131, subdivision 6, is amended to read:

Subd. 6. **Discount points.** A loan made under this section that is secured by real estate and that is in a principal amount of ~~$12,000~~ $16,800 or more and has a maturity of 60 months or more may contain a provision permitting discount points, if the loan does not provide a loan yield in excess of the maximum rate of interest permitted by this section. Loan yield means the annual rate of return obtained by a licensee computed as the annual percentage rate is computed under Federal Regulation Z. If the loan is prepaid in full, the licensee must make a refund to the borrower to the extent that the loan yield will exceed the maximum rate of interest provided by this section when the prepayment is taken into account. Discount points permitted by this subdivision and not collected but included in the principal amount must not be included in the amount on which credit insurance premiums are calculated and charged.

Sec. 7. Minnesota Statutes 2008, section 325G.22, subdivision 1, is amended to read:

Subdivision 1. **Personal liability of buyer limited.** If the seller or lender repossesses or voluntarily accepts surrender of personal property in which the seller or lender has a security interest arising out of a consumer credit transaction and the aggregate amount of the credit extended in the transaction was ~~$3,000~~ $6,300 or less, the buyer is not personally liable to the seller or lender for the unpaid balance of the debt arising from the consumer credit transaction, and the seller or lender is not obligated to resell the collateral.

Sec. 8. Minnesota Statutes 2008, section 510.02, subdivision 1, is amended to read:

Subdivision 1. **Exemption.** The homestead may include any quantity of land not exceeding 160 acres. The exemption per homestead, whether the exemption is claimed by one or more debtors, may not exceed ~~$300,000~~ $330,000 or, if the homestead is used primarily for agricultural purposes, ~~$750,000~~ $825,000, exclusive of the limitations set forth in section 510.05.

Sec. 9. Minnesota Statutes 2008, section 550.37, subdivision 4, is amended to read:

Subd. 4. **Personal goods.** (a) All wearing apparel, one watch, utensils, and foodstuffs of the debtor and the debtor's family.

(b) Household furniture, household appliances, phonographs, radio and television receivers of the debtor and the debtor's family, not exceeding ~~$4,500~~ $9,450 in value.

(c) The debtor's aggregate interest, not exceeding ~~$1,225~~ $2,572.50 in value, in wedding rings or other religious or culturally recognized symbols of marriage exchanged between the debtor and spouse at the time of the marriage and in the debtor's possession.

The exemption provided by this subdivision may not be waived except with regard to purchase money security interests. Except for a pawnbroker's possessory lien, a nonpurchase money security interest in the property exempt under this subdivision is void.

If a debtor has property of the type which would qualify for the exemption under clause (b), of a value in excess of ~~$4,500~~ $9,450 an itemized list of the exempt property, together with the value of each item listed, shall be attached to the security agreement at the time a security interest is taken, and a creditor may take a nonpurchase money security interest in the excess over ~~$4,500~~ $9,450 by requiring the debtor to select the exemption in writing at the time the loan is made.

Sec. 10. Minnesota Statutes 2008, section 550.37, subdivision 4a, is amended to read:

Subd. 4a. **Adjustment of dollar amounts.** (a) Except for subdivisions 5 and 7, the dollar amounts in this section shall change periodically as provided in this subdivision to the extent of changes in the implicit price deflator for the gross ~~national~~ domestic product, ~~1972~~ 2000 = 100, compiled by the United States Department of Commerce, and hereafter referred to as the index. The index for December ~~1980~~ 2007 is the reference base index.

(b) The designated dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for December of the preceding year and the reference base index is ten percent or more. The portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts stated in this section.

(c) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the Department of Commerce. If the index is superseded, the index referred to in this section is the one represented by the Department of Commerce as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(d) The commissioner of commerce shall ~~announce and publish~~:

(1) announce and publish on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by paragraph (b); ~~and~~

(2) announce and publish promptly after the changes occur, changes in the index required by paragraph (c) including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index~~.~~; and

(3) promptly notify the revisor of statutes in writing of the changes announced and published by the commissioner pursuant to clauses (1) and (2). The revisor shall publish the changes in the next edition of Minnesota Statutes.

(e) A person does not violate this chapter with respect to a transaction otherwise complying with this chapter if the person relies on dollar amounts either determined according to paragraph (b) or appearing in the last publication of the commissioner announcing the then current dollar amounts.

Sec. 11. Minnesota Statutes 2008, section 550.37, subdivision 6, is amended to read:

Subd. 6. **Tools of trade.** The tools, implements, machines, instruments, office furniture, stock in trade, and library reasonably necessary in the trade, business, or profession of the debtor, not exceeding ~~$5,000~~ $10,500 in value.

Sec. 12. Minnesota Statutes 2008, section 550.37, subdivision 10, is amended to read:

Subd. 10. **Insurance proceeds.** All money received by, or payable to, a surviving spouse or child from insurance payable at the death of a spouse, or parent, not exceeding ~~$20,000~~ $42,000. The ~~$20,000~~ $42,000 exemption provided by this subdivision shall be increased by ~~$5,000~~ $10,500 for each dependent of the surviving spouse or child.

Sec. 13. Minnesota Statutes 2008, section 550.37, subdivision 12a, is amended to read:

Subd. 12a. **Motor vehicles.** One motor vehicle to the extent of a value not exceeding ~~$2,000~~ $4,200; or one motor vehicle to the extent of a value not exceeding ~~$20,000~~ $42,000 that has been modified, at a cost of not less than ~~$1,500~~ $3,150, to accommodate the physical disability making a disabled person eligible for a certificate authorized by section 169.345.

Sec. 14. Minnesota Statutes 2008, section 550.37, subdivision 23, is amended to read:

Subd. 23. **Life insurance aggregate interest.** The debtor's aggregate interest not to exceed in value ~~$4,000~~ $8,400 in any accrued dividend or interest under or loan value of any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

Sec. 15. Minnesota Statutes 2008, section 550.37, subdivision 24, is amended to read:

Subd. 24. **Employee benefits.** (a) The debtor's right to receive present or future payments, or payments received by the debtor, under a stock bonus, pension, profit sharing, annuity, individual retirement account, Roth IRA, individual retirement annuity, simplified employee pension, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent of the debtor's aggregate interest under all plans and contracts up to a present value of ~~$30,000~~ $63,000 and additional amounts under all the plans and contracts to the extent reasonably necessary for the support of the debtor and any spouse or dependent of the debtor.

(b) The exemptions in paragraph (a) do not apply when the debt is owed under a support order as defined in section 518A.26, subdivision 21.

Sec. 16. **2010 CHANGES IN DOLLAR AMOUNTS AND INDEXES.**

For changes in the dollar amounts and indexes in sections 1 to 15 announced and published on or before April 30, 2010, the commissioner of commerce shall notify the revisor of statutes in writing promptly upon the effective date of sections 1 to 15 and the revisor shall publish the changes in the next edition of Minnesota Statutes.

Sec. 17. **EFFECTIVE DATE.**

Sections 1 to 16 are effective the day following final enactment.

APPENDIX
Article locations in 10-5181

ARTICLE 1	FRATERNAL BENEFIT SOCIETIES	Page.Ln 1.11
ARTICLE 2	ADJUSTMENTS TO DOLLAR AMOUNTS IN MINNESOTA STATUTES	Page.Ln 8.11