

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 846

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-31-82
DATE FOR REVIEW 9-9-82
DATE DUE 9-14-82

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 9-13-82 Disapproved _____ Returned to Agency 9-15-82

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 9-14-82 Revisor approved 9/1/82 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed see SR

✓ Order Adopting 8.30.82 Date

✓ Notice of Intent to Solicit Outside Opinion SR 4.28.80 + comments

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
6.26.82 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
6.28.82 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact + attached Exhibit

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received see FofF by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: MARY ALICE BROPHY
Commissioner of Securities & Real Estate

DATE: 9/13/82

ATTN : BARRY R. GRELLER, Spec. Ass't. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of the Rules of the State Department of Commerce, Securities and Real Estate Division Governing Real Estate Brokers and Salespersons

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

TAM:drw
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

STATE OF MINNESOTA

Banking Division
(612) 296-2135

Securities and Real Estate
Division
(612) 296-2594

Insurance Division
(612) 296-2488

Administrative Services
Division
(612) 296-2283

DEPARTMENT OF COMMERCE

500 Metro Square Building
St. Paul, Minnesota 55101

August 31, 1982

Mr. Larry P. Starns
Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Dear Mr. Starns:

Enclosed for your review pursuant to Minn. Stat. § 15.0412, Subd. 4(h) and 1 MCAR § 1.203, please find the following:

A. Four Revisor copies of the rule as adopted, all of which reflect the changes made to the version originally published in the State Register.

B. The original and three copies of the Order of Adoption.

C. One copy of the Notice of Intent to Solicit Outside Opinion and written comments received by the agency pursuant thereto.

D. One copy of the Order for Notice of Intent to Adopt Rules Without Public Hearing.

E. One copy of the Notice of Intent to Adopt Rules Without a Public Hearing.

F. The Affidavit of Mailing Notice of Intent to Adopt Rules Without Public Hearing.

G. The mailing list Certificate.

H. The relevant pages of the State Register in which the proposed rules appeared, including the Notice of Intent to Adopt Rules Without a Public Hearing.

I. The Findings of Fact and Conclusions.

J. The Statement of Need and Reasonableness.

K. Affidavit of Mailing Notice of Submission to the Attorney General and the Accompanying Notice.

L. Certificate of Compliance With Rulemaking Procedures.

The agency received no requests for a public hearing. Written comments were received from the Minnesota Association of Realtors and from Mr. Thomas R. Wilhelmy, originals of which are attached to the Findings of Fact and Conclusions as Exhibits A, B and C.

Very truly yours,

MARY ALICE BROPHY
Commissioner of Securities and Real Estate

By: Daniel W. Hardy

DANIEL W. HARDY
Assistant to the Commissioner
612-296-5689

MAB:DWH:dw

AG copy

Department of Commerce

Commissioner of Securities and Real Estate

Adoption, Amendment and Repeal of Rules and Forms of the State Securities and Real Estate Division Governing Real Estate Brokers and Salespersons

Rules as Adopted

4 MCAR S 1.41500 Definitions.

A. Applicability. For the purposes of 4 MCAR SS 1.41501-1.41552, the terms defined in this rule have the meanings given them.

B. Commissioner. "Commissioner" means the Commissioner of Securities and Real Estate.

C. Licensee. "Licensee" means a person duly licensed under Minn. Stat. ch. 82.

D. Loan broker. "Loan broker" means a licensed real estate broker or salesperson who for another and for a commission, fee, or other valuable consideration or with the intention or expectation of receiving the same (1) directly or indirectly negotiates or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance on real estate or (2) represents himself or herself or otherwise holds himself or herself out as a licensed real estate broker or salesperson (a) in connection with any transaction in which he or she directly or indirectly negotiates or offers or attempts to negotiate a loan or (b) in connection with the conduct of his or her ordinary business activities as a loan broker.

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

E. ~~Primary broker.~~ "Primary broker" means the broker en

transferred to correct alphabetical order.

~~whose behalf salespersons are licensed to act pursuant to Minn. Stat. S 82.20, subd. 6. In the case of a corporation licensed as a broker, "primary broker" means each officer of the corporation who is individually licensed to act as a broker for the corporation. In the case of a partnership, "primary broker" means each partner licensed to act as a broker for the partnership.~~

~~F.~~ E. Overpayment. "Overpayment" means any payment of moneys in excess of a statutory fee or for a license for which a person does not qualify.

~~G.~~ F. Override clause. "Override clause" means a provision in a listing agreement or similar instrument allowing the broker to receive a commission when the property is sold after the listing agreement has expired to persons with whom a broker or salesperson had negotiated or exhibited the property prior to the expiration of the listing agreement.

~~H.~~ G. Person. "Person" means a natural person, firm, institution, partnership, corporation, or association.

H. Primary broker. "Primary broker" means the broker on whose behalf salespersons are licensed to act pursuant to ' Minnesota Statutes, ' section 82.20, subdivision 6. In the case of a corporation licensed as a broker, "primary broker" means each officer of the corporation who is individually licensed to act as a broker for the corporation. In the case of a partnership, "primary broker" means each partner licensed to act as a broker for the partnership.

transferred from incorrect alphabetical order

I. Property. "Property" means real property or other property within the scope of Minn. Stat. ch. 82, unless the context clearly indicates otherwise.

J. Protective list. "Protective list" means the written list of names and addresses of prospective purchasers with whom a licensee has negotiated the sale or rental of the property or to whom a licensee has exhibited the property prior to the expiration of the listing agreement. For the purposes of this paragraph "property" means the property which is the subject of the listing agreement in question.

K. Rental service. "Rental service" means a person who gathers and catalogs information concerning apartments or other units of real estate available for rent, and who, for a fee, provides information intended to meet the individual needs of specifically identified lessors or prospective lessees. This term shall not apply to newspapers or other periodicals with a general circulation or individual listing contracts between an owner or lessor of property and a licensee.

L. School. "School" means a person offering or providing real estate education.

4 MCAR S 1.41501 Payment of fees.

A. Cash not accepted. All fees shall be paid by check, draft, or other negotiable or non-negotiable instrument or order of withdrawal which is drawn against funds held by a financial institution. Cash will not be accepted.

B. Overpayment of fees. An overpayment of a fee paid pursuant to Minn. Stat. ch. 82 shall be refunded within a reasonable time after a letter requesting the refund is received by the commissioner and signed by the person making the overpayment.

Refunds shall not be given for other than overpayment of fees. A request for a refund of an overpayment must be received by the commissioner within ~~three~~ six months of the date of deposit or it will be forfeited. --- FofF (2)

4 MCAR S 1.41502 Passing grade. A passing grade for a salesperson's and broker's examination shall be a score of 75 percent or higher on the uniform portion and a score of 75 percent or higher on the state portion of the examination.

The commissioner shall not accept the scores of a person who has cheated on an examination. Cheating on a real estate examination shall be grounds for denying an application for a broker's or salesperson's license.

4 MCAR S 1.41503 License.

A. Application for broker's license. After successful completion of the real estate broker's examination, an

individual shall have one year from the date of the examination to apply for a broker's license, unless the individual is a salesperson who remains continuously active in the real estate field as a licensee. Failure to apply for the broker's license or to remain continuously active in the real estate field will necessitate a reexamination.

An individual who holds a broker's license in his or her own name or for or on behalf of a corporation or partnership shall be issued an additional broker's license only upon demonstrating: (1) that the additional license is necessary in order to serve a legitimate business purpose; (2) that he or she will be capable of supervising all salespersons over whom he or she will have supervisory responsibility or, in the alternative, that he or she will have no supervisory responsibilities under the additional license; and (3) that he or she has a substantial ownership interest in each corporation or partnership for or on whose behalf he or she holds or will hold a broker's license.

The requirement of a substantial ownership interest shall not apply where the broker seeking the additional license or licenses is an officer of a corporation for or on whose behalf he or she already holds a license and he or she is applying for the additional license or licenses for or on behalf of an affiliated corporation or corporations of which he or she is also an officer. For the purpose of this rule "affiliated corporation" means a corporation which is directly or indirectly controlled by the same "persons" as the corporation for or on whose behalf he or she is already licensed to act.

For the purposes of this rule a legitimate business purpose includes engaging in a different and specialized area of real estate or maintaining an existing business name.

B. Cancellation of a salesperson's or broker's license. A salesperson's or broker's license which has been cancelled for failure of a licensee to complete post-licensing education requirements must be returned to the commissioner by the licensee's broker within ten days of receipt of notice of cancellation. The license shall be reinstated without

reexamination by completing the required instruction, filing an application, and paying the fee for a salesperson's or broker's license within one year of the cancellation date.

C. Waivers. The commissioner may waive the real estate licensing experience requirement for the broker's examination.

1. An applicant for a waiver shall provide evidence of:

a. Successful completion of a minimum of 90 quarter credits or 270 classroom hours of real estate-related studies;

b. A minimum of five consecutive years of practical experience in real estate-related areas; or

c. Successful completion of 30 credits or 90 classroom hours and three consecutive years of practical experience in real estate-related areas.

2. A request for a waiver shall be submitted to the commissioner in writing and be accompanied by documents necessary to evidence qualification as set forth in 1.

3. The waiver will lapse if the applicant fails to successfully complete the broker's examination within one year from the date of the granting of the waiver.

4 MCAR S 1.41505 Trust funds.

A. Listing broker. Unless otherwise agreed upon in writing by the parties to a transaction, the broker with whom trust funds are to be deposited in satisfaction of Minn. Stat. S 82.24, subd. 1 shall be the listing broker.

B. Maintenance. Trust funds shall be maintained in a trust account until disbursement is made in accordance with the terms of the applicable agreements and proper accounting is made to the parties entitled to an accounting.

Disbursement shall be made within a reasonable time following the consummation or termination of a transaction if the applicable agreements are silent as to the time of disbursement.

C. Consent to place in special account. Trust funds may be placed by the broker in a special account, which may be an interest-bearing account or certificate of deposit if the buyer and the seller consent in writing to the special account and to

the disposition of the trust funds, including any interest thereon.

D. Licensee as principal. Funds which would constitute trust funds if received by a licensee acting as an agent must, if received by a licensee acting as principal, be placed in a trust account unless a written agreement signed by all parties to the transaction specifies a different disposition of the funds. The written agreement shall state that the funds would otherwise be placed in a real estate trust account.

4 MCAR S 1.41514 Loan brokers; standards of conduct. Loan brokers shall comply with the requirements of A.-F.

A. Contract provisions. A loan broker shall enter into a written contract with each customer and shall provide a copy of the written contract to each customer at or before the time of receipt of any fee or valuable consideration paid for loan brokerage services. The written contract shall:

1. Identify the escrow account into which the fees or consideration will be deposited;

2. Set forth the circumstances under which the loan broker will be entitled to disbursement from the escrow account;

3. Set forth the circumstances under which the customer will be entitled to a refund of all or part of the fee;

4. Specifically describe the services to be provided by the loan broker and the dates by which the services will be performed;

5. State the maximum rate of interest to be charged on any loan obtained;

6. Contain a statement which notifies the customer of his or her rights to cancel the contract pursuant to B.;

7. Disclose, with respect to the 12-month period ending ten business days prior to the date of the contract in question, the percentage of the loan broker's customers for whom loans have actually been funded as a result of the loan broker's services. This disclosure need not be made for any period prior to the effective date of this rule; and

8. Disclose the cancellation rights and procedures set

forth in B.

B. Cancellation. Any customer of a loan broker who pays a fee prior to the time a loan is actually funded shall have an unconditional right to rescind the contract for loan brokerage services at any time until midnight of the third business day after the day on which the contract is signed. Cancellation is evidenced by the customer giving written notice of cancellation to the loan broker 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 loan broker with 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 customer not to be bound by the contract. No act of a customer of a loan broker shall be effective to waive the right to rescind as provided in this paragraph.

C. Escrow account. The loan broker shall deposit in an escrow account within 48 hours all fees received prior to the time a loan is actually funded. The escrow account shall be in a bank located within the State of Minnesota and shall be controlled by an unaffiliated accountant, lawyer, or bank officer or employee.

D. Records. The loan broker shall maintain a separate record of all fees received for services performed or to be performed as a loan broker. Each record shall set forth the date funds are received; the person from whom the funds are received; the amount received; the date of deposit in the escrow account; the account number; the date the funds are disbursed and the check number of the disbursement; and a description of each disbursement and the justification for the disbursement.

E. Monthly statement. The loan broker shall provide to each customer at least monthly a detailed written accounting of all disbursements of the customer's funds from the trust account.

F. Disclosure of lenders. The loan broker shall provide to each customer at the expiration of the contract a list of the lenders or loan sources to whom loan applications were submitted

on behalf of the customer.

4 MCAR S 1.41515 Standards of conduct. The methods, acts, or practices set forth in 4 MCAR SS 1.41516-1.41526 are standards of conduct governing the activities of real estate brokers and salespersons under Minn. Stat. ch. 82. Failure to comply with these standards shall constitute grounds for license denial, suspension, or revocation or for censure of the licensee.

4 MCAR S 1.41516 Responsibilities of brokers.

A. Supervision of personnel. Brokers shall adequately supervise the activities of their salespersons and employees. Supervision includes the on-going monitoring of listing agreements, purchase agreements, other real estate-related documents which are prepared or drafted by the broker's salespersons or employees or which are otherwise received by the broker's office, and the review of all trust account books and records. If an individual broker maintains more than one place of business, each place of business shall be under the broker's direction and supervision. If a partnership or corporate broker maintains more than one place of business, each place of business shall be under the direction and supervision of an individual broker licensed to act on behalf of the partnership or corporation.

The primary broker shall maintain records specifying the name of each broker responsible for the direction and supervision of each place of business. If an individual broker, who may be the primary broker, is responsible for supervising more than one place of business, the primary broker shall, upon written request of the commissioner, file a written statement specifying the procedures which have been established to assure that all salespersons and employees are adequately supervised. Designation of another broker to supervise a place of business does not relieve the primary broker of the ultimate responsibility for the actions of licensees.

B. Preparation and safekeeping of documents. Brokers shall be responsible for the preparation, custody, safety, and

accuracy of all real estate contracts, documents and records, even though another person may be assigned these duties by the broker.

C. Documentation and resolution of complaints. Brokers shall investigate and attempt to resolve complaints made regarding the practices of any individual licensed to them and shall maintain, with respect to each individual licensed to them, a complaint file containing all material relating to any complaints received in writing for a period of three years.

D. Disclosure of listed property information. No broker shall allow any unlicensed person to disclose any information regarding a listed property except to state the address of the property and whether it is available for sale or lease.

4 MCAR S 1.41517 Temporary broker's permit. In the event of death or incapacity of a broker, the commissioner may issue a 45-day temporary permit to an individual who has had a minimum of two years actual experience as a licensed real estate salesperson and who is otherwise reasonably qualified to act as a broker. Upon application prior to its expiration, the 45-day temporary permit shall be renewed once by the commissioner if the applicant demonstrates that he or she has made a good faith effort to obtain a broker's license within the preceding 45 days and an extension of time will not harm the public interest.

Only those salespersons licensed to the deceased or incapacitated broker at the time of death or incapacity may conduct business for or on behalf of the person to whom the temporary broker's license was issued.

4 MCAR S 1.41518 Licensee as agent of broker; disclosure. A salesperson shall only conduct business under the licensed name of and on behalf of the broker to whom he or she is licensed. An individual broker shall only conduct business under his or her licensed name. A broker licensed to a corporation or partnership shall only conduct business under the licensed corporate or partnership name. A licensee shall affirmatively disclose prior to the negotiation or consummation of any

transaction the licensed name of the broker under whom he or she is authorized to conduct business in accordance with this rule.

4 MCAR S 1.41519 Listing agreements.

A. Requirement. Licensees shall obtain a signed listing agreement, or other written authorization, from the owner of real property or from another person authorized to offer the property for sale or lease prior to advertising to the general public that the real property is available for sale or lease.

For the purposes of this rule "advertising" shall include placing a sign on the owner's property which indicates that the property is being offered for sale or lease.

B. Contents. All listing agreements shall be in writing and shall include:

1. A definite expiration date;

2. A description of the real property involved;

3. The list price and any terms required by the seller;

4. The amount of any compensation or commission or the basis for computing the commission;

5. A clear statement explaining the events or conditions which will entitle a broker to a commission;

6. Information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the seller with a protective list within 72 hours after the expiration of the listing agreement; and

7. The following notice in not less than ten point boldface type immediately preceding any provision of the listing agreement relating to compensation of the licensee:

"NOTICE: ~~THE AMOUNT OR RATE OF REAL ESTATE COMMISSIONS OR FEES IS NOT FIXED BY LAW AND MAY NOT LEGALLY BE FIXED BY MEANS OF AN AGREEMENT BETWEEN OR AMONG COMPETING REAL ESTATE FIRMS AND COMPANIES~~ THE COMMISSION RATE FOR THE SALE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND ITS CLIENT."

FoF (4)

C. Prohibited provisions. Licensees shall not include in a listing agreement a holdover clause, automatic extension, or any

similar provision, or an override clause the length of which is more than six months after the expiration of the listing agreement.

D. Override clauses. Licensees shall not seek to enforce an override clause unless a protective list has been furnished to the seller within 72 hours after the expiration of the listing agreement.

E. Protective lists. A broker or salesperson has the burden of demonstrating that each person on the protective list has, during the period of the listing agreement, either made an affirmative showing of interest in the property by responding to an advertisement or by contacting the broker or salesperson involved or has been physically shown the property by the broker or salesperson. For the purpose of this rule the mere mailing or other distribution by a licensee of literature setting forth information about the property in question does not, of itself, constitute an affirmative showing of interest in the property on the part of a subsequent purchaser.

The protective list shall contain the following notice in boldface type:

"IF YOU RELIST WITH ANOTHER BROKER WITHIN THE OVERRIDE PERIOD AND THEN SELL YOUR PROPERTY TO ANYONE WHOSE NAME APPEARS ON THIS LIST, YOU COULD BE LIABLE FOR FULL COMMISSIONS TO BOTH BROKERS. IF THIS NOTICE IS NOT FULLY UNDERSTOOD, SEEK COMPETENT ADVICE."

The protective list need not contain this notice if the written listing agreement specifically states that after its expiration the seller will not be obligated to pay the licensee a fee or commission if the seller has executed another valid listing agreement pursuant to which the seller is obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of the real property in question.

4 MCAR S 1.41520 Guaranteed sale programs. If a broker advertises or offers a guaranteed sale program, or other program whereby the broker undertakes to purchase real property in the event he or she is unable to effectuate a sale to a third party

within a specified period of time, a written disclosure which sets forth clearly and completely the general terms and conditions under which the broker agrees to purchase the property and the disposition of any profit at the time of resale by the broker must be provided to the seller prior to the execution of a listing agreement.

4 MCAR S 1.41521 Disclosure requirements.

A. Advertising. Each licensee shall identify himself or herself as either a broker or an agent in any advertising for the purchase, sale, lease, exchange, mortgaging, transfer, or other disposition of real property, whether the advertising pertains to his or her own property or the property of others.

B. Financial interests of licensee. Prior to the negotiation or consummation of any transaction, a licensee shall affirmatively disclose to the owner of real property that the licensee is a real estate broker or agent, and in what capacity the licensee is acting, if the licensee directly, or indirectly through a third party, purchases for himself or herself or acquires, or intends to acquire, any interest in, or any option to purchase, the owner's property.

C. Material facts. Licensees shall disclose to any prospective purchaser all material facts pertaining to the property, of which the licensee is aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensee is aware.

D. Nonperformance of any party. If a licensee is ~~aware that~~ put on notice by any party to a real estate transaction ~~is clearly unwilling or unable to~~ that the party will not perform in accordance with the terms of a purchase agreement or other similar written agreement to convey real estate, the licensee shall immediately disclose the fact of that party's ~~unwillingness or inability~~ intent not to perform to the other party or parties to the transaction ~~if the licensee is aware that the other party or parties have acted or are likely to act to their detriment in reasonable reliance upon the anticipated~~

~~consummation of the transaction~~. Whenever reasonably possible, the licensee shall inform the party who ~~is unable or unwilling~~ ~~to~~ will not perform of the licensee's ~~intention~~ obligation to disclose this fact to the other party or parties to the transaction prior to making the disclosure. The obligation required by this rule shall not apply to notice of a party's inability to keep or fulfill any contingency to which the real estate transaction has been made subject.

FoF (6)

4 MCAR S 1.41522 Prohibition on guaranteeing future profits. Licensees shall not, with respect to the sale or lease of real property, guarantee ~~or project or permit~~ or affirmatively encourage another person to guarantee ~~or project~~ future profits or earnings which may result from the purchase or lease of the real property in question unless the guarantee ~~or projection~~ and the assumptions upon which it is based are fully disclosed and contained in the contract, purchase agreement, or other instrument of sale or lease.

FoF (7)

4 MCAR S 1.41523 Negotiations.

A. Written offers. All written offers to purchase or lease shall be promptly submitted in writing to the seller or lessor.

FoF (8)

B. Nondisclosure of terms of offer. A licensee shall not disclose the terms of an offer to another prospective buyer or the buyer's agent prior to the presentation of the offer to the seller.

C. Closing costs. Licensees shall disclose to a buyer or a seller at or before the time an offer is written or presented that the buyer or seller may be required to pay certain closing costs, ~~and the approximate amount of these costs~~ which may effectively reduce the proceeds from the sale or increase the cash outlay at closing.

FoF (9)

D. Required documents. Licensees shall furnish to the parties to the transaction at the time the documents are signed or become available a true and accurate copy of listing agreements, earnest money receipts, purchase agreements, contracts for deed, option agreements, closing statements,

truth-in-housing forms, energy audits, and any other record, instrument, or document which is material to the transaction and which is in the licensee's possession.

E. Closing statement. The listing broker or his or her designee shall deliver to the seller at the time of closing a complete and detailed closing statement setting forth all of the receipts and disbursements handled by the broker for the seller. The listing broker shall also deliver to the buyer at the time of closing a complete and detailed statement setting forth the disposition of all moneys received in the transaction from the buyer.

F. Exclusive agency agreements. A licensee shall not negotiate the sale, exchange, lease, or listing of any real property directly with the owner or lessor knowing that the owner or lessor has executed a written contract granting exclusive agency in connection with the property to another real estate broker. The licensee shall inquire of the owner or lessor whether such a contract exists.

G. Prohibition against interference with contractual relationships of others. Licensees shall not induce any party to a contract of sale or lease, option, or exclusive listing agreement, to breach the contract, option, or agreement.

H. Prohibition against discouraging use of attorney. Licensees shall not discourage prospective parties to a real estate transaction from seeking the services of an attorney.

4 MCAR S 1.41524 Compensation.

A. Licensee to receive only from broker. A licensee shall not accept a commission or other valuable consideration for the performance of any acts requiring a real estate license from any person except the real estate broker to whom he is licensed or to whom he was licensed at the time of the transaction.

B. Undisclosed compensation. A licensee shall not accept, give, or charge any undisclosed commission or realize any direct or indirect remuneration which inures to the benefit of the licensee on an expenditure made for a principal.

C. Limitation on broker when transaction not completed.

When ~~for any reason~~ the owner fails or is unable to consummate a real estate transaction, through no fault of the purchaser, the listing broker may not claim any portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser~~, regardless of whether the commission from the owner has been earned~~. FofF (10)

4 MCAR S 1.41525 Notice to the commissioner. Licensees shall notify the commissioner of the facts in A.-D.

A. Change of application information. The commissioner shall be notified in writing of a change of information contained in the license application on file with the commissioner within ten days of the change.

B. Civil judgment. The commissioner shall be notified in writing within ten days of a final adverse decision or order of a court, whether or not the decision or order is appealed, regarding any proceeding in which the licensee was named as a defendant, and which alleged fraud, misrepresentation, or the conversion of funds, if the final adverse decision relates to the allegations of fraud, misrepresentation, or the conversion of funds. FofF (11)

C. Disciplinary action. The commissioner shall be notified in writing within ten days of the suspension or revocation of a licensee's real estate or other occupational license issued by this state or another jurisdiction.

D. Criminal offense. The commissioner shall be notified in writing within ten days if a licensee is charged with, adjudged guilty of, or enters a plea of guilty or nolo contendere to a charge of ~~a~~ any felony, or of any gross misdemeanor~~, misdemeanor, or any comparable offense~~ alleging fraud, misrepresentation, conversion of funds or a similar violation of any real estate licensing law. FofF (12)

4 MCAR S 1.41526 Access to governing statutes and rules. Every real estate office and branch office shall have a current copy of Minn. Stat. chs. 82 and 83 and the rules adopted thereunder available for the use of licensees.

4 MCAR S 1.41527 Rental services.

A. License. A rental service shall obtain a real estate broker's license prior to engaging in business or holding itself out as being engaged in business. No person shall act as a real estate salesperson on behalf of a rental service without first obtaining a real estate salesperson's license on behalf of the rental service.

B. Dissemination of unit information. A rental service shall not provide information regarding a rental unit without the express authority of the owner of the unit.

C. Availability of unit. A rental service shall not represent a unit as currently available unless its availability has been verified within 72 hours preceding the representation.

D. Advertising. A rental service shall not advertise in a manner which is misleading with regard to fees charged, services provided, the availability of rental units or rental terms or conditions.

4 MCAR S 1.41528 Fraudulent, deceptive, and dishonest practices. For the purposes of Minn. Stat. S 82.27, subd. 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

A. Act on behalf of more than one party to a transaction without the knowledge and consent of all parties;

B. Act in the dual capacity of licensee and undisclosed principal in any transaction;

C. Receive funds while acting as principal, which funds would constitute trust funds if received by a licensee acting as an agent, unless the funds are placed in a trust account. Funds need not be placed in a trust account if a written agreement signed by all parties to the transaction specifies a different disposition of the funds, ~~see~~ in accordance with 4 MCAR S 1.41505 D.;

D. Violate any state or federal law concerning discrimination intended to protect the rights of purchasers or renters of real estate;

E. Make a material misstatement in an application for a license or in any information furnished to the commissioner;

F. Procure or attempt to procure a real estate license for himself or herself or any person by fraud, misrepresentation, or deceit;

G. Represent membership in any real-estate related organization in which the licensee is not a member;

H. Advertise in any manner which is misleading or inaccurate with respect to properties, terms, values, policies, or services conducted by the licensee;

I. Make any material misrepresentation or permit or allow another to make any material misrepresentation;

J. Make any false or misleading statements, or permit or allow another to make any false or misleading statements of a character likely to influence, persuade, or induce the consummation of a transaction contemplated by Minn. Stat. ch. 82;

K. Fail within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to another;

L. Commingle with his or her own money or property trust funds or any other money or property of another held by the licensee;

M. Demand from a seller a commission to which the licensee is not entitled, knowing that he or she is not entitled thereto; FoF (13)

N. Pay or give money or goods of value to an unlicensed person for any assistance or information relating to the procurement by a licensee of a listing of a property or of a prospective buyer of a property. This paragraph does not apply to money or goods paid or given to the parties to the transaction;

O. ~~Commingle personal or other funds with trust funds or~~ Fail to maintain a trust account at all times, as provided by law; FoF (14)

P. Engage, with respect to the offer, sale, or rental of real estate, in an anticompetitive activity.

A licensee shall be deemed to have violated this provision

if he has been found to have violated the Minnesota Antitrust Law of 1971, Minn. Stat. SS 325D.49-325D.66 by a final decision or order of a court of competent jurisdiction.

Nothing in 4 MCAR S 1.41528 limits the authority of the commissioner to take actions against a licensee for fraudulent, deceptive, or dishonest practices not specifically described in this rule.

4 MCAR S 1.41529 Salespersons; initial real estate education requirements.

A. Generally. An approved 90-hour course of initial education shall consist of three 30-classroom-hour courses to be designated as Course I, Course II, and Course III. Pursuant to Minn. Stat. S 82.22, subd. 6, each applicant for a salesperson's license or salesperson is required to complete all courses successfully. Courses I, II, and III must be taken in sequence and may not be taken concurrently.

B. Salesperson's examination. Applicants must successfully complete the salesperson's examination within one year after the successful completion of Course I. After this date, credit for Course I will expire and successful completion of the first 30-hour course must be repeated before taking the salesperson's examination.

An exception will be made for students pursuing a full-time course of study in either a two-year or four-year real estate education program. The burden of demonstrating full-time status is on the student. Applicants must successfully complete the salesperson's examination within one year after the successful completion of the two-year or four-year course of study.

C. Application for salesperson's license. Applicants must apply for a salesperson's license within one year after successful completion of the licensing examination. Applicants who fail to apply for a license within the one-year period must retake Course I and successfully complete the examination.

D. Post-licensing education course. Courses II and III must be completed within one year after obtaining a salesperson's license.

E. Alternative means of completing initial education. Applicants may elect to complete Course II and Course III prior to examination or licensure and shall receive credit for those courses successfully completed if the applicant is otherwise in compliance with the time limitations set forth in B. and C.

F. Limitations on course substitutions. No course may be substituted for Course I.

Written requests for substitutions for Courses II and III shall be granted if the request is submitted no later than six months prior to the date upon which that education is due to be completed, if:

1. The salesperson is engaged exclusively in a specialized field, such as property management, and the course proposed to be substituted for Course II or III provides the student with at least 30 hours of instruction in that field; or

2. The salesperson demonstrates successful completion of a course in another jurisdiction which is substantially similar to Course II or III.

G. Limitation on use of certain education courses. Courses I and II may not be taken for credit towards a licensee's continuing education requirements.

Any Course III may be taken for credit towards a licensee's continuing education requirements if the licensee has not previously received credit for that course or a substantially similar course.

H. Textbooks required. Courses I, II, and III shall require the use of a textbook. The textbook shall cover substantially the subject matter of the course. The textbook shall be current and may be disallowed by the commissioner upon demonstration that it contains material errors.

correspondes to existing rule - see Statement of Needs. 17 ?

I. Completion of initial education. Successful completion of Courses I, II and III includes full-time classroom attendance throughout the course, completion of required assignments or reading materials if applicable, and passage of an examination designed by the school which is sufficiently comprehensive to measure the student's knowledge of all aspects of the course.

J. Course I.

1. Hours. Course I shall incorporate the following number of hours for each of the following topics, for a total of 30 hours:

(a) Introduction to real estate, one hour;

(b) Real estate licensing law (Minn. Stat. chs. 82 and 83), four hours;

(c) Law of agency, four hours;

(d) Law of contracts, five hours;

(e) Real estate financing, six hours;

(f) Types and classifications of property, three hours;

(g) Examination of title, one hour; and

(h) Title closing, six hours.

2. Curriculum. The Course I curriculum shall be based on the following outline:

I. Introduction to real estate

A. Overview of Course I

1. Course goals

2. Attendance

3. Examination policy

4. Course and instructor evaluation

B. Scope of industry

C. Areas of specialization

D. Industry terminology

E. Professional standards and ethics

F. Broker-salesperson relationship

II. Real estate license law, (Minn. Stat. ch. 82), subdivided land sales practices act (Minn. Stat. ch. 83) and securities act (Minn. Stat. ch. 80A)

A. Real estate license law

1. Purpose of law and rules

2. Administration of law

3. Substantive provisions of law

a. Trust accounts

b. Prohibition of fraudulent, deceptive or dishonest practices

c. Standards of conduct

d. Federal and state antidiscrimination laws

e. Licensing requirements

f. Education requirements

g. Real estate education, research and recovery fund

B. Subdivided land sales practices act

1. Scope of law

2. Registration and public disclosure provisions

3. Licensing requirements

C. Securities act; potential applicability to real estate

III. Law of agency

A. Agent and agency

1. Broker-principal relationship

2. Termination of relationships

3. Dual agency

4. Cooperative broker

B. Duties of broker and agent

1. Accountability

2. Fiduciary responsibility to seller

3. Full disclosure

C. Listing contract

1. Types

2. Essential elements of a listing agreement

3. Multiple listing

4. Commissions earned

D. Responsibilities to buyer

IV. Contracts

A. Definition

1. Types

2. Essentials

3. Breach; remedies

B. Purchase agreements

1. Examination and analysis

C. Other types of contracts

1. Contract for deed
2. Options

D. Cancellation of contract

E. Property description

1. Lot and block number
2. Metes and bounds
3. Government survey
4. Datum planes
5. Measurement and mathematics

V. Real estate financing

A. Note as evidence of indebtedness

B. Sources of mortgage funds

1. Lenders
2. Secondary mortgage market
3. Owner financing

C. Mortgage

1. Legal elements
2. Theories
   a. Lien
   b. Title
3. Mortgage clauses
   a. Covenants
      1. Indebtedness
      2. Insurance
      3. Removal
      4. Taxes
      5. Acceleration clause
      6. Warranty of title
   b. Special clauses
      1. Attorney's fees
      2. Receiver
      3. Sale in one parcel
      4. Trust
      5. Prepayment penalties
      6. Subordination
      7. Due-on-sale clause

8. Condemnation clause
9. Defeasance clause
10. Good repair

D. Types of mortgages
1. FHA
2. VA
3. Conventional/~~insurance~~ insured conventional, types currently available
4. Other
5. Points

E. Mortgage assumption and nonalienation

F. Contract for deed financing

G. Foreclosure (default)
1. Mortgage
2. Contract for deed

H. Buyer qualifications
1. Credit information
2. Standards for approval

I. Usury law

VI. Types of property

A. Classification
1. Real property
2. Personal property
3. Fixtures

B. Title
1. Private grant
2. Public grant
3. Political relations
a. Eminent domain
b. Escheat
4. Public policy
a. Adverse possession
b. Prescription
c. License

C. Estates and interests in land
1. Estates

2. Fee simple
3. Life estate (waste)
4. Remainders and reversions
5. Other

D. Concurrent ownership
1. Joint tenancy
2. Tenancy in common
3. Other

E. Easements

VII. Examination of title
A. History
B. Examination of abstract
C. Title insurance
1. Owners
2. Purchasers
3. Mortgage

D. Title registration (Torrens)

VIII. Title closing
A. Review of topics I-VII
B. Closing checklist
C. Methods of closing
1. Closing through escrow
2. Other

D. Delivery of deed
E. Responsibilities of buyer and seller
1. Taxes and liens
2. Reduction certificate (assumption statement)
3. Insurance
4. Leases
5. Bill of sale
6. Title search
7. Survey
8. Leases
9. Certificate of occupancy
10. Violations (ordinances)
11. Apportionments

F. Adjournment of closing (settlement)

G. Real estate settlement procedures act

1. Lender requirements

2. Truth-in-lending (regulation Z)

3. Settlement (closing)

H. Broker's responsibilities

K. Course II.

1. Hours. Course II shall incorporate the following number of hours for each of the following topics, for a total of 30 hours:

(a) Deeds, three hours;

(b) Search and examination of title, one hour;

(c) Residential appraisal, six hours;

(d) Residential construction, two hours;

(e) Land development and use, three hours;

(f) Condominiums, cooperatives, planned unit developments, and manufactured housing, three hours;

(g) Taxation, four hours;

(h) Investment and appraisal, four hours;

(i) Real property management, two hours; and

(j) Leases and leasing, two hours.

2. Curriculum. The Course II curriculum shall be based on the following outline:

I. 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 acknowledgement

8. Seal

B. Delivery

C. Recording

D. Types of deeds

1. Quitclaim
2. Warranty deed and covenants
3. Special warranty deed
4. Other

E. Covenants running with the land

F. Validity

II. Search and examination of title

A. Object of search

1. Chain of title
2. Recording acts

B. Grantor-grantee system of indexing

1. Running the chain of title
2. Grantors
3. Mortgages
4. Lis pendens
5. Judgments
6. Liens
7. Taxes
8. Probate court
9. Special assessments

C. Lot and block indexing

III. Residential appraisal

A. Values

1. Economic concepts
2. Value and price
3. Cost
4. Elements of value
   a. Physical
   b. Economic
   c. Social
   d. Legal
5. Characteristics of value
   a. Utility
   b. Scarcity, demand
   c. Transferability
6. Principles of value

a. Substitution
b. Conformity
c. Anticipation

B. Fundamental considerations
1. Population trends
2. Neighborhood characteristics
3. Building description
4. Site evaluation
5. Market value

C. Highest and best use
1. Factors of production
2. Diminishing returns
3. Over and under improvement

D. Approaches to value
1. Cost
2. Market
3. Income

E. Appraisal report

IV. Residential construction
A. Government regulations
B. Architectural styles
C. Plans and specifications
1. Foundations
2. Exterior
3. Interior

D. Disclosure

V. Land development and use
A. Public land use control
1. City planning
a. Enabling acts
b. Planning commissions
c. Capital improvements
d. Master planning
e. Future scope of planning
2. Zoning
a. Purpose

b. Form of ordinances
c. Exclusionary zoning
d. Board of appeals
e. Nonconforming use
f. Variance
g. Green acres law
3. Building codes
4. Environmental impact statements
5. Subdivision regulations
B. Prepurchase
1. Analysis of market
2. Site selection
3. Land costs
4. Drainage, soil tests, topography
5. Utilities
6. Road costs
7. Transportation, schools, shopping
8. Covenants
9. Government
10. Financing
a. Purchase, option or escrow
b. Rolling option
C. Planning
1. Subdivision
2. Planned urban development
3. Filing the plat
4. Consumerism and environmental protection
5. Subdivided land sales ~~and~~ practices act
6. State and local land use regulations
D. Urban development and revitalization

VI. Condominiums, cooperatives, planned unit developments and manufactured housing

A. Cluster housing
1. History
2. Economics
a. Land use efficiency

b. Amenities

B. Condominiums

1. Rights and obligations

a. Declaration

1. Bylaws

2. Rules and regulations

3. Assessments and collections

4. ~~Homeowners~~ Homeowners' associations

b. Map

c. Conveyance

d. Management agreement

1. Duties

2. Enforcement of rules

3. Collection of fees and dues

2. Financing

3. Time share ownership

4. Minnesota Condominium Act

5. Conversions

a. Physical changes

b. Feasibility

c. Tenant rights

d. Moratoriums

C. Cooperatives

1. Cooperator (individual shareholder)

2. Refinancing methods

3. Owner's association

4. Tax treatment (the 80 percent rule)

5. Other forms

D. Planned unit developments

1. Planned land uses

2. Organization

E. Manufactured housing

1. Definition

2. Considerations

a. Site

b. Value

c. Safety

3. Financing

VII. Taxation

A. Real property taxes

1. Tax assessment levies

a. City

b. County

c. School district

2. Obtaining tax information

3. Appraisal and classification

4. Homestead status

B. Residential property

1. Basis

2. Adjustment of basis

3. Installment plan sales

4. Tax deferral on sale and repurchase

5. Tax implications of residential ownership

C. Income producing property

1. Long term capital gain and loss

2. Offsetting gains and losses

3. Classification

D. Depreciation on real property

E. Residential rehabilitation expense

VIII. Investment and appraisal

A. Risks

1. Purchasing power

2. Market

3. Interest rates

4. Earning power

5. Liquidity

B. Leverage

C. Cash and tax flow

D. Investment analysis

1. Effective gross income

2. Margin

3. Return on investment

E. Real estate syndication
1. General partners
2. Limited partners
3. Regulation
4. Risks and rewards
F. Real estate investment trusts
G. Appraisal of investment property
1. Net operating income
a. Converting net income to value
b. Rate of return (discount rate)
2. Estimate of value

IX. Real property management
A. Background
1. Development of management
2. Scope of management
a. Residential
b. Commercial
c. Industrial
d. Agricultural
3. Professional management
4. Types of owners
B. Management plan
1. Objectives
2. Regional analysis
3. Neighborhood analysis
4. Property analysis
a. Physical
b. Fiscal
c. Operational
5. Market analysis
a. Costs and profit
b. Comparable
c. Escalation base
6. Analysis of alternatives
7. Conclusions and recommendations
C. Government and real estate management

1. Local government
   a. Rent control
   b. Handicapped requirements
   c. Fire code requirements
   d. Miscellaneous ordinances
2. State government
   a. Landlord-tenant laws
   b. Nondiscrimination
   c. Extension of tenants' rights
3. Federal government
   a. Nondiscrimination
   b. HUD subsidies
   c. Regulated housing
4. Housing programs

D. Management operations
   1. Marketing
   2. Tenant underwriting
   3. Tenant administration
   4. Physical plant maintenance
      a. Preventative maintenance
      b. Energy management
   5. Operational record keeping
      a. Physical records
      b. Tenant files
      c. Budget
      d. Fiscal

X. Leases and leasing
   A. Statute of frauds
   B. Elements of a contract (review)
   C. Types of tenancies
      1. Estate for years
      2. Tenancy from year to year
      3. Tenancy at will
      4. Tenancy at sufferance
      5. Holdover tenants
   D. Types of leases

1. Gross
2. Net
3. Percentage
4. Land
5. Farm

E. Form of lease

1. Common covenants
2. Residential leases
3. Responsibilities of lessor
4. Responsibilities of lessee
5. Termination
   a. Expiration
   b. Automatic renewal
   c. Breach of conditions
   d. Abandonment
   e. Eviction
6. Minnesota landlord-tenant act

L. Course III.

1. Hours. Course III shall be a 30-hour course consisting of one of the following:

(a) Real estate appraisal, 30 hours;

(b) Closing procedures, 30 hours;

(c) Farm and ranch brokerage, 30 hours;

(d) Real estate finance, 30 hours;

(e) Real estate investment, 30 hours;

(f) Real estate law, 30 hours;

(g) Real estate management, 30 hours;

(h) Real estate mathematics, 30 hours;

(i) Business brokerage, 30 hours; or

(j) A combination course of no more than three of the subjects set forth in (a)-(i), 30 hours.

2. Curriculum.

(a) The real estate appraisal course shall be based on the following outline:

Real estate appraisal

I. Nature, importance and purposes of appraisals

II. Nature, importance and characteristics of property and value

III. Principles controlling real estate value

IV. The appraisal process

V. Economic and neighborhood analysis

VI. Considerations and fundamentals of site evaluation

VII. Construction methods and materials

VIII. Architectural styles and utility

IX. Cost approach: estimating costs and accrued depreciation

X. Analysis

XI. Market data approach

XII. Income approach: income and expense analysis, capitalization theory and techniques

XIII. Reconciliation and final value estimate

XIV. Writing the report

XV. Course examination

(b) The closing procedures course shall be based on the following outline:

Closing procedures

I. Overview of closing: persons present, protocol, timeliness

II. Review of purchase agreement, supplements, addenda

III. Compilation of data needed to prepare a closing file

IV. Legal documents

V. Abstracts, title procedures

VI. Review of settlement costs: buyer, seller

VII. Closing statement: prorations and other math

VIII. Review of sample cases

IX. Follow-up procedures

X. Course examination

(c) The farm and ranch brokerage course shall be based on the following outline:

Farm and ranch brokerage

I. Responsibilities of broker to seller and buyer

II. Selling options

III. Sources of financing

IV. Factors in selecting a farm or ranch

V. Advantages and disadvantages of irrigation systems

VI. Determination of farm and ranch value

VII. Considerations in the constructing of purchase agreements

VIII. Course examination

(d) The real estate finance course shall be based on the following outline:

Real estate finance

I. Introduction to the mortgage market

II. Sources of mortgage money

III. Real estate investment trusts and syndication

IV. Mortgage banking

V. Financing residential properties

VI. Financing income producing properties

VII. Construction and land development loans

VIII. Special techniques used in financing real estate

IX. Junior mortgages

X. Land contracts

XI. Financing long term leases

XII. Course examination

(e) the real estate investment course shall be based on the following outline

Real estate investment

I. Real estate investments

II. Discounted cash flow analysis

III. Measuring investment returns

IV. Estimation of real estate cash flows

V. Real estate financing

VI. The tax process

VII. Acquisitions and operations

VIII. Dispositions and exchanges

IX. After tax investment analysis

X. Speculative land investment

XI. Multiple exchanges

XII. Course examination

(f) The real estate law course shall be based on the following outline:

Real estate law

I. The process of real estate law

II. Real estate brokerage

III. Contract for the sale of real estate

IV. Property conveyance

V. Title insurance and closing

VI. Property ownership and taxes

VII. Estates in land and landlord/tenant relationships

VIII. Cooperatives, condominiums and planned unit developments

IX. Real estate lending and land use regulations

X. Course examination

(g) The real estate management course shall be based on the following outline:

Real estate management

I. Overview and economics of real estate management

II. Government involvement

III. The management plan

IV. Owner relations and record keeping

V. Marketing and leasing

VI. Property operations

A. Tenant administration

B. Physical plant maintenance

C. Staffing and employee relations

VII. Residential management

A. Rental housing

B. Condominiums and cooperatives

VIII. Commercial management

A. Office building and special purpose properties

B. Shopping centers and retail properties

IX. The management office

X. Creative property management

XI. Course examination

(h) The real estate mathematics course shall be based on the the following outline:

Real estate mathematics

I. Functions

A. Percentages, fractions, decimals, equivalencies, functions

B. Basic geometric rules

C. Ratio, proportion, scale

D. Basic algebraic operations

II. Areas of application to real estate

A. Broker trust accounts

B. Sales and listings

C. Valuation and spatial problems

D. Finance

E. Income and investment property

F. Closing

III. Course examination

(i) The business brokerage course shall be based on the following outline:

Business brokerage

I. Business financial statements

II. Financial statement ratio analysis

III. Cash flow, rate of return, and breakeven analysis

IV. Competitive market analysis

V. Valuation of the business

VI. Developing the business plan

VII. Qualifying the buyer

VIII. Terms of the purchase agreement

IX. Financing the business opportunity

X. Evaluation of business risk

XI. Course examination

(j) A combination course shall consist of no more than three of the preceding nine subjects and shall devote at least ten hours to each subject. A school which proposes to offer a combination Course III shall 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.

3. Course objectives

(a) Real estate appraisal. Upon completion of the real estate appraisal course, a student should be able to explain the nature, importance and characteristics of the factors affecting property value; perform an economic and neighborhood analysis; discuss and apply the cost, market and income approaches to value; estimate the value of 1-4 ~~units of~~ unit residential ~~property~~ properties; and prepare a written report of the appraisal.

(b) Closing procedures. Upon completion of the closing procedures course, a student should be able to develop a checklist of activities and documents needed to carry out a closing; coordinate the compilation of information and documents from all parties to a closing; interpret all information on a purchase agreement; compute prorations and other calculations required for a closing; complete acceptable legal formats for all documents serving to transfer title; prepare an accurate closing statement; and develop a closing file system.

(c) Farm and ranch brokerage. Upon completion of the farm and ranch brokerage course, a student should be able to utilize the management assistance available to brokers, buyers and sellers of farm real estate; determine the value of farm or ranch real estate; understand the components that make up farm and ranch real estate; identify and describe methods of financing farm and ranch property; and understand the considerations in the preparation of a purchase agreement for

the sale of farm or ranch property.

(d) Real estate finance. Upon completion of the real estate finance course, a student should be able to identify and describe methods of financing real property; explain the role of financial institutions in financing the purchase or sale of real estate; utilize compound interest or "time value of money" concepts to facilitate investment and financing decisions; apply these methods to solve client financing problems; and discuss the practices and procedures of loan application, analysis, closings and foreclosure.

(e) Real estate investment. Upon completion of the real estate investment course, a student should be able to understand and describe investment tax considerations such as depreciation, capital gains, installment sales and exchanges; utilize the mathematics of real estate investment; perform feasibility studies including market analysis; perform property analysis; and apply techniques of investment analysis to specific types of real estate.

(f) Real estate law. Upon completion of the real estate law course, a student should be able to understand the process of real estate law, its historical origins, and the legal responsibilities placed upon real estate salespersons and brokers; prepare and understand the basic contracts of property conveyance; explain the major legal aspects of property conveyance, property ownership, insurance settlement procedures, taxes and leasing agreements; recognize and apply the specific requirements in planned unit developments, condominium and cooperative housing transactions; and understand the requirements of real estate lending and land use regulations.

(g) Real estate management. Upon completion of the real estate management course, a student should be able to explain and discuss the scope, nature and importance of property management; outline the essentials of a management plan; and understand the significant differences between residential, commercial, industrial and retail property management.

(h) Real estate mathematics. Upon completion of the

real estate mathematics course, a student should be able to identify required mathematical procedures to be used in real estate transactions; perform required mathematical functions with a high level of accuracy; isolate and explain the steps of each calculation; and explain mathematical procedures to clients as needed.

(i) Business brokerage. Upon completion of the business brokerage course, a student should be able to evaluate business financial statements, qualify potential buyers, review relevant markets including competition, develop a business plan, value the firm's assets and goodwill, negotiate the terms of a purchase agreement, and explain terms of financing, valuation, and business risk to a potential buyer.

4 MCAR S 1.41530 Continuing education.

A. Generally. Continuing education shall consist of approved courses which impart substantive and procedural knowledge in the real estate field.

B. Attendance. Courses must be attended in their entirety in order for a licensee to obtain credit. No credit will be given for partial attendance at a course.

C. Credit approved. Courses will be approved only in hour segments. No fractional hours will be approved, nor will applicants be given credit for any period of less than a whole hour.

D. Examinations. Course examinations will not be required for continuing education courses unless they are required by the school or the licensee elects to take Course III for continuing education credit.

E. Textbooks. Textbooks are not required to be used for continuing education courses. In instances in which 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.

F. Credit earned. Upon completion of approved courses,

students shall earn one hour of continuing education credit for each hour of attendance and approved instructors shall earn three hours of continuing education credit for each hour of instruction. Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor.

G. Disapproved courses. Approval will not be granted for courses (1) designed to prepare students for passing any licensing examinations; (2) in mechanical office or business skills, including typing, speed-reading, use of calculators or other machines or equipment; (3) in sales promotion, including meetings held in conjunction with the general business of the licensee's broker; (4) or in motivation, salesmanship, psychology or time management.

H. Continuing education credit for Course III. Licensees may attend or teach Course III for continuing education credit. Credit will be given for less than the entire Course III only for combination courses offered pursuant to 4 MCAR S 1.41529 L.1.j. Credit will be given only for attendance at segments of the combination Course III which completely cover a subject. An examination will be required only if the licensee takes the entire combination course or if the school requires a separate examination for each subject covered.

The burden of demonstrating that courses impart substantive and procedural knowledge in the real estate field is upon the person seeking approval or credit.

4 MCAR S 1.41531 General real estate education requirements. Rules 4 MCAR SS 1.41532-1.41548 constitute general requirements applicable to all real estate education courses.

4 MCAR S 1.41532 Course approval.

A. Generally. Courses must be approved by the commissioner in advance and will be approved or disapproved on the basis of their compliance with the provisions of Minn. Stat. S 82.22 and the rules adopted thereunder.

No advance approval is required for continuing education

offerings if the licensee demonstrates attendance at an offering which was in substantial compliance with Minn. Stat. ch. 82 and the rules adopted thereunder.

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

B. Permitted course offerings. Courses complying with Minn. Stat. ch. 82 and the rules adopted thereunder may be offered or sponsored by schools.

Coordinators must immediately notify the commissioner of any material change in an application for approval or in the exhibits attached to it.

C. Limitation on advertising. Courses may not be advertised prior to approval.

D. Applications. Applications for course approval will be accepted on forms prescribed by the commissioner no later than 30 days prior to the course offering and shall include the following:

1. The course title;

2. The date, time, and place of the course offering;

3. The name, address, and telephone number of the sponsoring entity;

4. The name, address, and telephone number of the course coordinator;

5. The name, address, and telephone number of the instructor;

6. The name, edition, and date of publication of the text to be used, if applicable;

7. A detailed outline of the course offering, or a statement of compliance with the prescribed outlines for Course I, II, or III; and

8. Compliance with the service of process provisions of Minn. Stat. S 82.31, if applicable.

The form in 4 MCAR S 1.41555 (RE-3) shall be used for Courses I, II, and III and the form in 4 MCAR S 1.41558 (RE-6) shall be used for continuing education courses.

E. Subsequent offerings of courses. Approval shall be

granted for subsequent offerings of identical continuing education courses without requiring a new application if a Notice of Subsequent Offerings, 4 MCAR S 1.41560 (RE-8), is filed with the commissioner at least 30 days in advance of the date the course is to be held.

Subsequent offerings of identical Courses I, II, and III do not require the approval of or notice to the commissioner.

4 MCAR S 1.41533 Courses open to all. All course offerings shall be open to any interested individuals. Discounts of tuition shall not be given because of affiliation with any particular brokerage or franchise.

4 MCAR S 1.41534 Course coordinator.

A. Requirement. Each course of study shall have one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with Minn. Stat. ch. 82 and the rules adopted thereunder. Schools may engage an additional approved coordinator in order to assist the coordinator or to act as a substitute for the coordinator in the event of an emergency or illness.

B. Qualifications. The commissioner shall approve as a coordinator a person meeting one or more of the following criteria:

1. A minimum of the previous five years as an active real estate broker;

2. At least three years of full-time experience in the administration of an education program during the five-year period immediately preceding the date of application; or

3. A degree in education plus two years real estate experience.

Application for approval must be submitted on the form in 4 MCAR S 1.41554 (RE-2).

C. Responsibilities. A coordinator shall be responsible for:

1. Assuring compliance with all laws and rules pertaining to real estate education;

2. Assuring that students are provided with current and

accurate information relating to the laws and rules governing their real estate activity;

3. Supervising and evaluating courses and instructors. Supervision shall include 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. Furnishing the commissioner, upon request, with copies of evaluations of instructors or courses;

5. Investigating complaints related to course offerings and instructors;

6. Maintaining records relating to course offerings, instructors, and student attendance for a period of three years from the date on which the course was completed. These records shall be made available to the commissioner upon request.

In the event that a school should cease operation for any reason, the coordinator shall be responsible for maintaining the records or providing a custodian for the records acceptable to the commissioner. Under no circumstances will the commissioner act as custodian of the records. In order to be acceptable to the commissioner, custodians must agree to make copies of acknowledgements available to students at a reasonable fee.

7. Assuring that the coordinator is available to instructors and students throughout course offerings and providing the name of the coordinator and a telephone number at which the coordinator can be reached;

8. Attending workshops or instructional programs as reasonably required by the commissioner;

9. Reporting on the form in 4 MCAR S 1.41557 (RE-5) the attendance of licensed students in Courses II and III to the commissioner within 14 days of their completion of the course; and

10. Providing students with Course Completion Certificates, 4 MCAR S 1.41553 (RE-1), for Courses I, II, and III, and continuing education courses.

4 MCAR S 1.41535 Instructors.

A. Requirement. Each course of study shall have an instructor who is qualified by education, training, or experience to insure competent instruction.

B. Qualifications. The following provisions relate to the approval and qualification of instructors:

1. Applicants shall submit requests for instructor approval on the form in 4 MCAR S 1.41556 (RE-4) for Courses I, II, and III and the form in 4 MCAR S 1.41559 (RE-7) for continuing education courses. Requests must be submitted at least 30 days prior to instruction in an approved course;

2. Applicants for Courses I, II, and III shall be approved if they achieve a rating of 70 points or higher based upon the scale in Exhibit 4 MCAR S 1.41535 B.-1.

Exhibit 4 MCAR S 1.41535 B.-1.

Ratings for Applicants Seeking Approval as Instructors of Courses I, II, and III

POINTS	CRITERIA
20	2-year degree or certificate;
40	4-year degree;
50	post graduate degree;
60	2-year real estate degree or certificate;
70	4-year real estate degree or certificate. Points may not be accumulated in the case of individuals holding more than one degree or certificate;
10	Each 45 hours of continuing real estate education attended or taught. No points will be allowed for periods of less than 45 hours;
30	First three-year period in which engaged full-time in

the real estate industry as a licensed broker or salesperson or, in the case of applicants for Course III, the first three-year period in which engaged full-time in a business or profession relating to the subject being taught. No points will be allowed for an applicant who has been licensed for less than three years or who has been engaged in a related business or profession for less than three years;

10 Each full year, after the first full three years, in which engaged full-time in the real estate industry as a licensed broker or salesperson or, in the case of applicants for Course III, each full year, after the first full three years, in which engaged full-time in a business or profession relating to the subject being taught.

3. The same instructor may teach all three courses. Instructors may engage a nonapproved or guest instructor to teach up to ten hours of specialized coursework covered in Course I, II, or III. Approved instructors remain responsible for complying with the provisions of C.; and

4. Continuing education instructors must have either:

a. a degree in any area plus two years practical

experience in the subject area being taught;

b. five years practical experience in the subject area being taught;

c. a college or graduate degree in the subject area being taught; or

d. have held a broker's license for three years or have three years practical experience in the subject area being taught. These individuals shall also have completed at least 60 hours of approved continuing education in the subject area being taught.

C. Responsibilities. Approved instructors shall be responsible for the following:

1. Compliance with all laws and rules relating to real estate education;

2. Providing students with current and accurate information;

3. Maintaining an atmosphere conducive to learning in the classroom;

4. 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 such workshops or instructional programs as are reasonably required by the commissioner.

4 MCAR S 1.41536 Prohibited practices for coordinators and instructors.

A. Generally. In connection with an approved course coordinators and instructors shall not:

1. Recommend or promote the services or practices of any particular real estate brokerage, franchise, coordinator, instructor or school;

2. Encourage or recruit individuals to engage the services of, or become associated with, any particular real estate brokerage or franchise;

3. Use materials, clothing, or other evidences of affiliation with any particular real estate brokerage or

franchise;

4. Require students to participate in other programs or services offered by the school, coordinator, or instructor;

5. Take a Minnesota real estate licensing examination without the prior approval of the commissioner;

6. Attempt, either directly or indirectly, to discover questions or answers on a real estate licensing examination; or

7. Disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations.

B. Notification of misconduct. Coordinators and instructors shall notify the commissioner within ten days of a felony conviction or of disciplinary action taken against a real estate or other occupational license held by the coordinator or instructor.

C. Coordinators and instructors shall notify the commissioner within ten days of any change in the information set forth in the application for approval on file with the commissioner.

4 MCAR S 1.41537 Extensions. Upon appropriate showing of a bona fide financial or medical hardship, the commissioner may extend the time period during which post-licensing or continuing education instruction must be successfully completed. Loss of income resulting from cancellation of a license is not a bona fide hardship. Requests for extensions must be submitted in writing no later than 45 days prior to the date of license cancellation and shall include an explanation and verification of the hardship, and a verification of enrollment in an approved course of study and the dates during which the course will be held.

4 MCAR S 1.41538 Waivers. Required real estate education shall not be waived for any licensee or applicant for a license.

4 MCAR S 1.41539 Fees. Fees for approved courses and related materials shall be reasonable and clearly identified to students. In the event that a course is cancelled for any

reason, all fees shall be returned promptly. In the event that a course is postponed for any reason, students shall 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 his or her registration in a course, school policies regarding refunds shall govern. editorial clarification

4 MCAR S 1.41540 Facilities. Each course of study shall be conducted in a classroom or other facility which is adequate to implement the offering. Approved courses shall not be held on the premises of a real estate brokerage, franchise, or an affiliate thereof.

4 MCAR S 1.41541 Conflict of interest. A course will not be approved if it is offered by a person who derives substantial income from the real estate brokerage business.

4 MCAR S 1.41542 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 of the necessary materials. Outlines and any other materials which are reproduced shall be of readable quality.

4 MCAR S 1.41543 Advertising.

A. Generally. Advertising must be truthful and not deceptive or misleading.

B. Approval statement. No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering may be circulated or distributed in this state unless the following statement is prominently displayed on the cover of it:

1. For initial education courses, "This course has been approved by the Commissioner of Securities and Real Estate pursuant to Minn. Stat. S 82.22, subd. 6 for initial education courses;" or

2. For continuing education courses, "This course has been approved by the Commissioner of Securities and Real Estate

pursuant to Minn. Stat. S 82.22, subd. 13, relating to continuing real estate education."

The preceeding language need not be displayed on the cover of any out-of-state offering advertisement; however, it is the responsibility of the school to provide students with evidence that the course has been approved.

C. Approved course advertisements. Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

4 MCAR S 1.41544 Notice. At the beginning of each approved offering, the following notice shall be read to students: "This real estate educational offering is recognized by the Commissioner of Securities and Real Estate as satisfying ..... hours of credit toward ..... (choose one, or more, of the following: prelicensing, postlicensing, or continuing) real estate education requirements pursuant to Minn. Stat. S 82.22. If you have any comments about this real estate offering, please mail them to the Commissioner of Securities and Real Estate, 500 Metro Square Building, St. Paul, Minnesota 55101."

4 MCAR S 1.41545 Audits. The commissioner reserves the right to audit subject offerings with or without notice to the school.

4 MCAR S 1.41546 Disciplinary action. The commissioner may deny, censure, suspend, or revoke the approval of a coordinator, instructor, or course if it is determined that they are not in compliance with Minn. Stat. ch. 82 or the rules adopted thereunder.

4 MCAR S 1.41547 Course completion certificates. Applicants for a salesperson's license shall submit to the commissioner, along with their application for licensure, a copy of the Course Completion Certificate, 4 MCAR S 1.41553 (RE-1), for Course I, and for Courses II and III if completed prior to being licensed.

Students are responsible for maintaining copies of Course Completion Certificates.

4 MCAR S 1.41548 Reports to commissioner. Continuing education credits shall be reported by the licensee on the form in 4 MCAR S 1.41561 (RE-9).

Forms will not be accepted unless they reflect the entire 45 required hours. Incomplete forms will be returned to the licensee.

Forms must be received by the commissioner no later than June 15 of the year in which the credits are due. Forms which are mailed shall be deemed timely received if addressed to: Real Estate Licensing, 500 Metro Square Building, Saint Paul, MN 55101, and postmarked prior to 12:01 a.m. on June 14. Licensees are encouraged to submit the form as soon as they have completed the 45 hours of continuing education credit.

4 MCAR SS 1.41549 Automatic transfer of salesperson's license.

A. Applicability. A salesperson may utilize the automatic license transfer provisions of Laws 1982, ch. 478, section 1, subdivision 9, clause (b) if the salesperson commences his or her association with the broker to whom he or she is transferring, as evidenced by the dates of the signatures of both brokers on the form in 4 MCAR S 1.41562 (RE-10), within five days after terminating his or her association with the broker from whom he or she is transferring, provided the salesperson's educational requirements are not past due.

A salesperson may not utilize the automatic license transfer provisions of Laws 1982, ch. 478, section 1, subdivision 9, clause (b) if he or she has failed to notify the commissioner within ten days of any change of information contained in his or her license application on file with the commissioner or of a civil judgment, disciplinary action, or criminal offense, which notice is required pursuant to 4 MCAR S 1.41525.

B. Procedure. An application for automatic transfer shall be made only on the form in 4 MCAR S 1.41562 (RE-10). The transfer is ineffective if the form is not completed in its entirety.

The form in 4 MCAR S 1.41562 (RE-10) shall be accompanied by a $10 transfer fee, and the license renewal fee, if applicable, plus an additional $10 if the salesperson holds a subdivided land license. Cash will not be accepted. If the licensee holds a subdivided land license it must be transferred at the same time as the salesperson's license. In order for the transfer of the subdivided land license to be effective the broker to whom the salesperson is transferring must also hold a subdivided land license.

The signature on the form in 4 MCAR S 1.41562 (RE-10) of the broker from whom the salesperson is transferring must predate the signature of the broker to whom the salesperson is transferring. The salesperson is unlicensed for the period of time between the times and dates of both signatures. The broker from whom the salesperson is transferring shall sign and date the transfer application upon the request of the salesperson and shall destroy the salesperson's license immediately.

C. Effective date.

1. The transfer is effective when the broker to whom the salesperson is transferring signs and dates the transfer application form in 4 MCAR S 1.41562 (RE-10), provided the commissioner receives the form and fee within 72 hours after the date and time of the new broker's signature, either by certified mail or personal delivery to the commissioner's office. In the event of a delay in mail delivery, an application postmarked within 24 hours of the date of the signature of the new broker shall be deemed timely received.

2. The transfer is ineffective if the fee is paid by means of a check, draft or other negotiable or non-negotiable instrument or order of withdrawal drawn on an account with insufficient funds.

3. The salesperson shall retain the certified mail return receipt, if the transfer application is delivered to the commissioner by mail, retain a photocopy of the executed transfer application, and provide a photocopy of the executed transfer application to the broker from whom he or she is

transferring.

4 MCAR S 1.41550 Approved lender is not a broker. The definition of "real estate broker" or "broker" set forth in Minn. Stat. S 82.17, subd. 4, clause (b) shall not apply to the originating, making, processing, selling, or servicing of a loan in connection with his or her ordinary business activities by a mortgagee ~~or~~, lender or servicer approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association.

4 MCAR S 1.41551 Applicability. Prior rules exclusively govern all suits, actions, prosecutions, or proceedings which are pending or may be initiated on the basis of facts or circumstances occurring before the effective date of these rules. Judicial review of all administrative orders issued prior to the effective date of these rules as to which review proceedings have not been instituted by the effective date of these rules is governed by prior rules.

4 MCAR S 1.41552 Withdrawal of ~~status~~ license or application.

A. Request to commissioner. 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 30 days after receipt of a request to withdraw or within a shorter period the commissioner determines unless a revocation, suspension, or denial proceeding is pending when the request to withdraw is filed or a proceeding to revoke, suspend, deny, or to impose conditions 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 may 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.

B. Failure to renew license. If a license lapses or becomes ineffective due to the licensee's failure to file a timely renewal application or otherwise, the commissioner may institute a revocation or suspension proceeding within one year 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.

C. Revocations. If the commissioner finds that any licensee or applicant is no longer in existence or has ceased to do business as a broker or salesperson 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.

4 MCAR S 1.41553 Course Completion Certificate. The real estate education course completion certificate shall be in the form in Exhibit 4 MCAR S 1.41553-1.

Exhibit 4 MCAR S 1.41553-1

RE-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

COURSE COMPLETION CERTIFICATE

NOTICE TO SCHOOL: Furnish two copies to student.
NOTICE TO STUDENTS:
1. For Course I, attach one copy to license application.
2. For Course II and III, retain for your records unless course was completed prior to licensure. If completed prior to licensure, attach one copy to license application.
3. For continuing education courses, transfer information from this form to Form RE-9 and submit to Real Estate Licensing when total is 45 hours. Retain one copy for your records.

Student's Name (as it appears on your license)	Home Address
City, State, Zip	Company to which You are Licensed
School/Sponsoring Entity	
Completion Date of Course	☐ Course I ☐ Course II ☐ Course III
☐ Continuing Education — No. of Hrs.	Course No. / Course Title
Coordinator's Signature	Date

M-00502-01

4 MCAR S 1.41554 Application for Coordinator Approval. The real estate education application for coordinator approval shall be in the form in Exhibit 4 MCAR S 1.41554-1.

Exhibit 4 MCAR S 1.41554-1

RE-2

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

APPLICATION FOR COORDINATOR APPROVAL

Name of Applicant		Address
City, State, Zip	Phone ( )	School/Sponsoring Entity for Which Seeking Approval

4 MCAR § 1.41534 Course Coordinator. B. Qualifications – The Commissioner shall approve as a coordinator a person having the following qualifications:

1. A minimum of the previous five years as an active real estate broker
   OR:
2. At least three of the prior five years of full time experience in the administration of an education program
   OR:
3. A degree in education plus two years real estate experience.

Educational Background Relating to Criteria for Approval		
School	Dates Attended	Degree (indicate major)

Employment History Relating to Criteria for Approval			
Name of Employer	Address	Date of Employment	Position

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If Yes, date issued: _____ Type of License: _____		

▶If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendent in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

I certify that the information contained on this application is correct. I understand that if approved as coordinator, I will be responsible for compliance with Minnesota laws and rules relating to real estate education in connection with any courses conducted under my supervision. I further certify that I have read and understood the Minnesota laws and rules relating to real estate education.

Signature of Applicant	Date

CM-00503-01

4 MCAR S 1.41555 Application for Course Approval for Course I, II, and III. The real estate education application for course approval for courses I, II, and III shall be in the form in Exhibit 4 MCAR S 1.41555-1.

Exhibit 4 MCAR S 1.41555-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-3

APPLICATION FOR COURSE APPROVAL
FOR COURSE I, II, AND III

Instructions: 1. Attach Service of Process Form (for out-of-state applicants only).
2. Attach Instructor Approval Form if instructor has not previously been approved.

"X" applicable course: ☐ Course I ☐ Course II ☐ Course III

Course Title		School/Sponsoring Entity	
Address	City, State, Zip		Phone (include area code) ( )

Course Dates:	From	To	Time	Total Hours
	Course Location			
	Name of Text	Date of Edition	Author	

"X" if you certify that course material is in compliance with prescribed outlines: ☐ Yes ☐ No

If Course III is a combination of subjects, list below:

Subject	Number of Hours

Coordinator	Home Address
City, State, Zip	Phone (include area code) ( )

As coordinator of the proposed offering, I certify that the information contained in this application is correct to the best of my knowledge. I also certify that this course is not being offered by an individual, firm or business organization, the primary income of which is derived from the real estate brokerage business.

Signature of Coordinator	Date

State of _____)
) ss
County of _____)

On this _____ day of _____ 19__, _____ appeared before me, a Notary Public, and being duly sworn, says that she/she has read the foregoing application and accompanying exhibits, and that the contents thereof are true to her/his own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

FOR OFFICE USE ONLY		
Course No.	Course Title	Date Approved
Reason for Non-approval		
Signature	Title	

CM-00504-01

4 MCAR S 1.41556 Application for Instructor Approval for Courses I, II, III. The real estate education application for instructor approval for courses I, II, and III shall be in the form in Exhibit 4 MCAR S 1.41556-1.

Exhibit 4 MCAR S 1.41556-1

RE-4

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

APPLICATION FOR INSTRUCTOR APPROVAL
FOR COURSES I, II, III

Name of Applicant	Address	
City, State, Zip	Phone (include area code) ( )	School/Sponsoring Entity

4 MCAR § 1.41535 Instructors 2. Applicants for Course I, II, and III shall be approved if they achieve a rating of 70 points or higher based upon the scale below.

Points	
20	2 year degree or certificate
40	4 year degree
50	Post graduate degree
60	2 year real estate degree or certificate
70	4 year real estate degree or certificate
10	Each 45 hours of approved continuing real estate education attended or taught.
30	First three year period in which engaged full time in real estate industry or profession related to area of teaching.
10	Each successive year in which engaged in full time in real estate or profession relating to area of teaching.

Educational Background For Which Applicant Seeks Points		
Name of School	Dates Attended	Degree

Educational Points: _____

Continuing Real Estate Education For Which Applicant Seeks Points	
Total No. of Hours Attended	Total No. of Hours Taught

Continuing Education Points: _____

Professional Experience For Which Applicant Seeks Points		
Place of Employment	Dates	Position Held

Experience Points: _____

TOTAL POINTS: _____

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If yes, date issued: _____ Type of License: _____		

▶If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendant in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

OVER

CM-00505-01

I certify that the information contained in this application is correct and that I will notify the Commissioner within ten days of any changes in the information contained herein.

Signature of Applicant	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19__, _____ appeared before me, a Notary Public, and being duly sworn, says that she/he is the applicant; that she/he read the foregoing application and accompanying exhibits, and that the contents are true to her/his knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

I recommend that approval as an instructor be granted for the aforementioned applicant. I understand that I am responsible for the supervision of this instructor pursuant to 4 MCAR § 1.41534C.

Signature of Coordinator	Date

4 MCAR S 1.41557 Course II and III Record of Completion. The real estate education courses II and III record of completion shall be in the form in Exhibit 4 MCAR S 1.41557-1.

Exhibit 4 MCAR S 1.41557-1

RE-5

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

COURSE II and III RECORD OF COMPLETION

This form is to be submitted by schools/sponsoring entities within 14 days of course completion.

"X" one: ☐ Course II ☐ Course III

Completion Date

Student Name	Home Address	Company Name

Coordinator's Signature	Date	Name of School/Sponsoring Entity

School/Sponsoring Entity Address	City, State, Zip

CM-00506-01

4 MCAR S 1.41558 Application for Course Approval for Continuing Education. The real estate education application for course approval for continuing education shall be in the form in Exhibit 4 MCAR S 1.41558-1.

Exhibit 4 MCAR S 1.41558-1

RE-6

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

APPLICATION FOR COURSE APPROVAL
FOR CONTINUING EDUCATION

Instructions:
1. Attach a Service of Process Form (for out-of-state applicants only).
2. Attach syllabus (pursuant to 4 MCAR §1.41530 (E) and include the time allotted to each segment in the outline.
3. Attach instructor approval form.

Course Title		School/Sponsoring Entity		
Address	City, State, Zip		Phone (include area code) ( )	
Course Dates: From	To	Time	Total Hours	
Course Location				
Name of Text (if applicable)	Date of Edition	Author		

Coordinator	Home Address
City, State, Zip	Phone (include area code) ( )

As coordinator of the proposed offering, I certify that the information contained in this application is correct to the best of my knowledge. I also certify that this course is not being offered by an individual, firm or business organization, the primary income of which is derived from the real estate brokerage business.

Signature of Coordinator	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19___, _____ appeared before me, a Notary Public, and being duly sworn, says that she/he has read the foregoing application and accompanying exhibits, and that the contents thereof are true to her/his own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

FOR OFFICE USE ONLY

Course No.	Course Title	Date Approved
Reason for Non-Approval		
Signature	Title	

CM-00507-01

4 MCAR S 1.41559 Application for Instructor Approval for Continuing Education. The real estate education application for instructor approval for continuing education shall be in the form in Exhibit 4 MCAR S 1.41559-1.

Exhibit 4 MCAR S 1.41559-1

RE-7

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

APPLICATION FOR INSTRUCTOR APPROVAL FOR CONTINUING EDUCATION

Name of Applicant	Address
City, State, Zip	Telephone (include area code) ( )
Course Title	School/Sponsoring Entity

4 MCAR §1.41535 Instructors B. (4) Continuing Education instructors must have a degree in any area plus two years practical experience in the subject being taught; OR five years practical experience in the subject area being taught; OR a college degree in the subject area being taught; OR have held a broker's license for 3 years, or have 3 yrs. practical experience in the subject area being taught, and have completed at least 60 hours of approved continuing education in the subject area being taught.

College/University			
Name of School	Address	Year of Graduation	Major

Experience Related to Subject Area			
Dates	Place of Employment	Address	Position Held

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If yes, date issued: _____ State _____ Type of License: _____		

▶If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendent in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

I certify that the information contained in this application is correct and that I will notify the Commissioner within ten days of any changes in the information contained herein.

Signature of Applicant	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19___, _____ appeared before me, a Notary Public, and being duly sworn says that she/he is the applicant; that he/she has read the foregoing application and accompanying exhibits, and that the contents are true to his/her own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

CM-00508-01

4 MCAR S 1.41560 Notice of Subsequent Offerings of Continuing Education Courses. The real estate education notice of subsequent offerings of continuing education courses shall be in the form in Exhibit 4 MCAR S 1.41560-1.

Exhibit 4 MCAR S 1.41560-1

RE-8

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

NOTICE OF SUBSEQUENT OFFERINGS OF CONTINUING EDUCATION COURSES

This Form is to be used to notify the Commissioner no later than 30 days in advance of the proposed offering of previously approved courses.

Course No.	Course Title		School/Sponsoring Entity	
School Address	City, State, Zip		Phone (area code) ( )	
Coordinator's Name	Home Address		City, State, Zip	
Course Dates:	From	To	Time	Total Hours
	Course Location			
	Submitted by (print or type)		Signature	
	Title		Date	

CM-00509-01

4 MCAR S 1.41561 Continuing Education Course Verification. The real estate education continuing education course verification shall be in the form in Exhibit 4 MCAR S 1.41561-1.

Exhibit 4 MCAR S 1.41561-1

RE-4

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

CONTINUING EDUCATION
COURSE VERIFICATION

The information which you furnish on this form will be used to determine whether you have complied with the continuing education requirement of Minnesota Statutes, Chapter 82. You are not legally required to provide this information. However, if you fail to do so, the Department of Commerce will be unable to renew your real estate license. Information contained on this application, other than name and address, will be private pursuant to Minnesota Statute, Chapter 15.

Instructions

1. This form is an on-going record of your continuing education credits for the three year reporting period. Attach additional forms if necessary.
2. Each time you complete a continuing education course, enter the course number, date completed, course title and the number of hours of credit received.
3. When the total number of hours received reaches 45, sign and date the bottom of the form and promptly submit to:
   Real Estate Licensing
   500 Metro Square Building
   St. Paul, MN 55101
   Do not wait until the renewal of your license. Retain a copy for your records.
4. Be sure that all information requested is provided. Incomplete forms will be returned to the licensee.
5. If credit is earned as instructor, place "instructor" next to the course title. Instructors may earn three credit hours for each one hour taught, only the first time a course is taught.

Name (as it appears on your license)	License No.	Name of Company to Which You Are Licensed
Home Address	City, State, Zip	

Course No.	Date Completed	Course Title	Credit Hours
		TOTAL	

CERTIFICATION

I certify that I have taken and completed the courses listed above and will furnish to the Securities and Real Estate Division, upon request, evidence of having taken any or all of the courses listed.

Signature	Date

CM-00518-01

4 MCAR S 1.41562 Real Estate Salesperson Automatic Transfer. The real estate salesperson automatic transfer shall be in the form in Exhibit 4 MCAR S 1.41562-1.

Exhibit 4 MCAR S 1.41562-1

RE-10

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, MN 55101
(612) 296-9458

REAL ESTATE SALESPERSON AUTOMATIC TRANSFER

The data which you furnish on this form will be used to implement the automatic transfer of your real estate salesperson's license. You are not legally required to provide this data. However, if you fail to do so you will be unable to utilize the automatic license transfer provision of Minnesota Statute §82.20, Subd. 9(b). Disclosure of your social security number is voluntary, authorized by Minnesota Statute, Chapter 270A. Your social security number may be used to recapture payments made out of the Recovery Fund. Information contained in this application, other than your name and address, will be private pursuant to Minnesota Statutes, Chapter 15.

This form may be used to effect an automatic transfer of a salesperson's license from one broker to another broker provided:

a) the applicant's educational requirements are not past due.
b) this form is completed in its entirety;
c) the applicant commences his/her association with the broker to whom he is transferring within five days after terminating his association with the broker from whom he/she is transferring;
d) the appropriate transfer fee is attached (if the applicant transfers between May 1 and June 30, inclusive, of any year he/she must also pay the renewal fee in addition to the transfer fee);
e) this form and the appropriate fees are received either by certified mail or personal delivery to the Securities and Real Estate Division of the Department of Commerce within 72 hours of execution by the broker to whom the applicant is transferring; (in the event of a delay in mail delivery, an application postmarked within 24 hours of the date of the signature of the new broker shall be deemed timely received);
f) the signature of the previous broker pre-dates the signature of the broker to whom the salesperson is transferring;
g) the applicant is in compliance with 4 MCAR Section 1.41525 concerning notice to the commissioner of any change of information contained in his/her license application or of any civil judgment, disciplinary action or criminal offense.

"X" one:				
☐	Transfer	$10.00	☐ Transfer and Renewal*	$25.00
☐	Transfer with Subdivided Land	$20.00	☐ Transfer and Renewal with Subdivided Land*	$35.00

*Renewal fees are subject to increase due to special assessments for the Real Estate Education, Research and Recovery Fund. If transferring between May 1 and June 30, inclusive, of any year contact the commissioner's office to determine whether a special assessment has been made.

Applicant's Name as it Appears on License	Social Security No.	License No.
Home Address	City, State, Zip	
Broker (company to whom presently licensed)		License No.
Signature of Broker	Time	Date
Broker (company to whom you will be licensed)		License No.

I understand that I, as broker, am responsible for the real estate activities of this salesperson as of the time and date below:

Signature of Broker	Time	Date

I hereby certify that I currently hold a Minnesota Real Estate Salesperson's License and that I am eligible for an immediate transfer; that I am not past due for any educational requirements; and that all information contained herein is true and accurate. Further, I understand that I am unlicensed for any period of time between the signatures of the terminating broker and the broker to whom I am transferring. I understand and acknowledge that if this application is not received by the Securities and Real Estate Division within 72 hours of execution of the broker to whom I am transferring, or that if this application is not completed in its entirety, I am not eligible for an immediate transfer. I further certify that I have not failed to notify the Commissioner within 10 days of any change of information contained in my license application or of any civil judgment, disciplinary action or criminal offense, which notice is required pursuant to 4 MCAR 1.41525. (If this application is submitted to the Commissioner by certified mail, the return receipt shall constitute evidence of delivery.)

Signature of Applicant	Date

CM-00511-01

APPLICANT MUST RETAIN A PHOTOCOPY OF THIS DOCUMENT AS EXECUTED AND SHALL ALSO PROVIDE THE BROKER FROM WHOM HE IS TRANSFERRING WITH A PHOTOCOPY OF THIS DOCUMENT AS EXECUTED.

Repealer. 4 MCAR S 1.41504, 4 MCAR S 1.41508, 4 MCAR S 1.41509, 4 MCAR S 1.41511, the forms following 4 MCAR S 1.41511, and 4 MCAR S 1.41512 are repealed.

Effective date. Rules 4 MCAR SS 1.41529-1.41548 and 4 MCAR SS 1.41553-1.41561 are effective January 1, 1983.

APPROVED AS TO LEGALITY

Sept 13 19 82

WARREN SPANNAUS, ATTORNEY GENERAL

BY Ted A Mondale

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 14 1982
Joan Anderson Growe
Secretary of State

10:30 AM

Rules as Proposed

4 MCAR S 1.41500 Definitions.

A. Applicability. For the purposes of ~~these rules~~ 4 MCAR SS 1.41501-1.41552, the terms defined in this ~~section shall~~ rule have the meanings given ~~to~~ them.

~~1. "Chapter" shall mean Minnesota Laws 1973, Ch. 410 (codified as Minn. Stat. 1973, ch. 82).~~

B. Commissioner. "Commissioner" means the Commissioner of Securities and Real Estate.

~~2.~~ C. Licensee. "Licensee" ~~shall mean any~~ means a person duly licensed under ~~this chapter~~ Minn. Stat. ch. 82.

D. Loan broker. "Loan broker" means a licensed real estate broker or salesperson who for another and for a commission, fee, or other valuable consideration or with the intention or expectation of receiving the same (1) directly or indirectly negotiates or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance on real estate or (2) represents himself or herself or otherwise holds himself or herself out as a licensed real estate broker or salesperson (a) in connection with any transaction in which he or she directly or indirectly negotiates or offers or attempts to negotiate a loan or (b) in connection with the conduct of his or her ordinary business activities as a loan broker.

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

E. Primary broker. "Primary broker" means the broker on whose behalf salespersons are licensed to act pursuant to Minn. Stat. S 82.20, subd. 6. In the case of a corporation licensed as a broker, "primary broker" means each officer of the corporation who is individually licensed to act as a broker for the corporation. In the case of a partnership, "primary broker" means each partner licensed to act as a broker for the

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partnership.

F. Overpayment. "Overpayment" means any payment of moneys in excess of a statutory fee or for a license for which a person does not qualify.

~~3.~~ G. Override clause. "Override clause" ~~shall mean~~ means a provision in a listing agreement or similar instrument allowing the broker to receive a commission when the property is sold~~,~~ after the listing agreement has expired~~,~~ to persons with whom a broker or salesperson had negotiated or exhibited the property prior to the expiration of the listing agreement.

H. Person. "Person" means a natural person, firm, institution, partnership, corporation, or association.

I. Property. "Property" means real property or other property within the scope of Minn. Stat. ch. 82, unless the context clearly indicates otherwise.

~~4.~~ J. Protective list. "Protective list" ~~shall refer to~~ means the written list of names and addresses of prospective purchasers with whom a ~~broker or salesperson had~~ licensee has negotiated ~~or~~ the sale or rental of the property or to whom a licensee has exhibited the property prior to the expiration of the listing agreement. For the purposes of this paragraph "property" means the property which is the subject of the listing agreement in question.

K. Rental service. "Rental service" means a person who gathers and catalogs information concerning apartments or other units of real estate available for rent, and who, for a fee, provides information intended to meet the individual needs of specifically identified lessors or prospective lessees. This term shall not apply to newspapers or other periodicals with a general circulation or individual listing contracts between an owner or lessor of property and a licensee.

L. School. "School" means a person offering or providing real estate education.

4 MCAR S 1.41501 Payment of fees.

A. Cash not accepted. All fees shall be paid by check, draft, or other negotiable or non-negotiable instrument or order

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of withdrawal which is drawn against funds held by a financial institution. Cash will not be accepted.

B. Overpayment of fees. ~~"Overpayment" shall mean any payment of monies in excess of a statutory fee or for an examination or license for which a person does not qualify.~~ An overpayment of ~~any~~ a fee paid pursuant to ~~this chapter~~ Minn. Stat. ch. 82 shall be refunded within a reasonable time after a letter requesting ~~said~~ the refund is received by the commissioner and signed by the person making the overpayment.

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

4 MCAR S 1.41502

A. Passing grade. ~~While the examinations are different~~ A passing grade ~~of~~ for a salesperson's and broker's examination shall be a score of 75 percent or higher ~~shall be a passing grade for~~ on the uniform portion and a score of 75 percent or higher on the state portion of the ~~real estate broker and real estate salesperson's~~ examination.

The commissioner shall not accept the scores of a person who has cheated on an examination. Cheating on a real estate examination shall be grounds for denying an application for a broker's or salesperson's license.

4 MCAR S 1.41503 License.

A. Application for broker's license. After successful completion of the real estate broker's examination, ~~a person~~ an individual shall have one year from the date of ~~such~~ the examination to apply for a broker's license, unless ~~such~~ the individual is a salesperson who remains ~~continually~~ continuously active in the real estate field as a licensee. Failure to apply for the broker's license or to remain continuously active in the real estate field will ~~result in~~ necessitate a ~~re-examination~~ reexamination.

An individual who holds a broker's license in his or her

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own name or for or on behalf of a corporation or partnership shall be issued an additional broker's license only upon demonstrating: (1) that the additional license is necessary in order to serve a legitimate business purpose; (2) that he or she will be capable of supervising all salespersons over whom he or she will have supervisory responsibility or, in the alternative, that he or she will have no supervisory responsibilities under the additional license; and (3) that he or she has a substantial ownership interest in each corporation or partnership for or on whose behalf he or she holds or will hold a broker's license.

For the purposes of this rule a legitimate business purpose includes engaging in a different and specialized area of real estate or maintaining an existing business name.

B. Cancellation of a salesperson's or broker's license. A salesperson's or broker's license which has been cancelled for failure of a ~~salesperson~~ licensee to complete ~~required instruction~~ post-licensing education requirements must be returned to the commissioner by the ~~salesperson's~~ licensee's broker within ten days of receipt of notice of cancellation. ~~Such~~ The license ~~may~~ shall be reinstated without ~~re-examination~~ reexamination by completing the required instruction ~~and~~, filing an application, and paying the fee for a salesperson's or broker's license within one year of the cancellation date.

C. Waivers. The commissioner may waive the real estate licensing experience requirement for the broker's examination.

1. ~~Qualifications.~~ An applicant for a waiver shall provide evidence of ~~either~~:

a. Successful completion of a minimum of ~~ninety~~ (90) quarter credits or ~~two hundred seventy~~ (270) classroom hours of real estate-related studies; ~~or~~

b. A minimum of five (5) consecutive years of practical experience in real estate-related areas; or

c. Successful completion of ~~thirty~~ (30) credits or ~~ninety~~ (90) classroom hours and three (3) consecutive years of practical experience in real estate-related areas.

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2. ~~Requests.~~ A request for a waiver shall be submitted to the commissioner in writing and be accompanied by ~~such~~ documents ~~as~~ necessary to evidence qualification as set forth in 1.

3. The waiver will lapse if the applicant fails to successfully complete the broker's examination within one year from the date of the granting of the waiver.

4 MCAR S 1.41505

~~A.~~ Trust funds.

~~1.~~ A. Listing broker. Unless otherwise agreed upon in writing by the parties to a transaction, the broker with whom trust funds are to be deposited in satisfaction of Minn. Stat. S 82.24, subd. 1 ~~of this chapter~~ shall be the listing broker.

~~2. Trust funds received by a broker or his salesperson shall include but not be limited to funds received in connection with the following:~~

~~a. offers to purchase~~

~~b. options~~

~~c. land contracts~~

~~d. rent contracts~~

~~e. mortgages~~

~~f. mortgage payments~~

~~g. real estate taxes and insurance payments~~

~~h. any other receipts pertaining to the sale, exchange, purchase, or rental of real estate.~~

~~This obligation shall extend to business opportunities and mortgage financing.~~

~~3.~~ B. Maintenance. ~~Said~~ Trust funds shall be maintained in ~~the~~ a trust account until disbursement is made in accordance with the terms of the applicable agreements ~~provided 4 MCAR S 1.41505 A.2. above~~ and proper accounting is made to the parties entitled ~~thereto~~ to an accounting.

Disbursement shall be made within a reasonable time following the consummation or termination of a transaction if the applicable agreements are silent as to the time of disbursement.

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~~4.~~ C. Consent to place in special account. Trust funds may be placed by the broker in a special account, which may be an interest-bearing account or certificate of deposit, ~~provided~~ if the buyer and the seller consent in writing to ~~such~~ the special account ~~or deposit~~ and to the disposition of ~~such~~ the trust funds, including any interest thereon.

D. Licensee as principal. Funds which would constitute trust funds if received by a licensee acting as an agent must, if received by a licensee acting as principal, be placed in a trust account unless a written agreement signed by all parties to the transaction specifies a different disposition of the funds. The written agreement shall state that the funds would otherwise be placed in a real estate trust account.

Rules as Proposed (all new material)

4 MCAR S 1.41514 Loan brokers; standards of conduct. Loan brokers shall comply with the requirements of A.-F.

A. Contract provisions. A loan broker shall enter into a written contract with each customer and shall provide a copy of the written contract to each customer at or before the time of receipt of any fee or valuable consideration paid for loan brokerage services. The written contract shall:

1. Identify the escrow account into which the fees or consideration will be deposited;

2. Set forth the circumstances under which the loan broker will be entitled to disbursement from the escrow account;

3. Set forth the circumstances under which the customer will be entitled to a refund of all or part of the fee;

4. Specifically describe the services to be provided by the loan broker and the dates by which the services will be performed;

5. State the maximum rate of interest to be charged on any loan obtained;

6. Contain a statement which notifies the customer of his or her rights to cancel the contract pursuant to B.;

7. Disclose, with respect to the 12-month period ending

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ten business days prior to the date of the contract in question, the percentage of the loan broker's customers for whom loans have actually been funded as a result of the loan broker's services. This disclosure need not be made for any period prior to the effective date of this rule; and

8. Disclose the cancellation rights and procedures set forth in B.

B. Cancellation. Any customer of a loan broker who pays a fee prior to the time a loan is actually funded shall have an unconditional right to rescind the contract for loan brokerage services at any time until midnight of the third business day after the day on which the contract is signed. Cancellation is evidenced by the customer giving written notice of cancellation to the loan broker 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 loan broker with 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 customer not to be bound by the contract. No act of a customer of a loan broker shall be effective to waive the right to rescind as provided in this paragraph.

C. Escrow account. The loan broker shall deposit in an escrow account within 48 hours all fees received prior to the time a loan is actually funded. The escrow account shall be in a bank located within the State of Minnesota and shall be controlled by an unaffiliated accountant, lawyer, or bank officer or employee.

D. Records. The loan broker shall maintain a separate record of all fees received for services performed or to be performed as a loan broker. Each record shall set forth the date funds are received; the person from whom the funds are received; the amount received; the date of deposit in the escrow account; the account number; the date the funds are disbursed and the check number of the disbursement; and a description of each disbursement and the justification for the disbursement.

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OFFICE BY:

E. Monthly statement. The loan broker shall provide to each customer at least monthly a detailed written accounting of all disbursements of the customer's funds from the trust account.

F. Disclosure of lenders. The loan broker shall provide to each customer at the expiration of the contract a list of the lenders or loan sources to whom loan applications were submitted on behalf of the customer.

4 MCAR S 1.41515 Standards of conduct. The methods, acts, or practices set forth in 4 MCAR SS 1.41516-1.41526 are standards of conduct governing the activities of real estate brokers and salespersons under Minn. Stat. ch. 82. Failure to comply with these standards shall constitute grounds for license denial, suspension, or revocation or for censure of the licensee.

4 MCAR S 1.41516 Responsibilities of brokers.

A. Supervision of personnel. Brokers shall adequately supervise the activities of their salespersons and employees. Supervision includes the on-going monitoring of listing agreements, purchase agreements, other real estate-related documents which are prepared or drafted by the broker's salespersons or employees or which are otherwise received by the broker's office, and the review of all trust account books and records. If an individual broker maintains more than one place of business, each place of business shall be under the broker's direction and supervision. If a partnership or corporate broker maintains more than one place of business, each place of business shall be under the direction and supervision of an individual broker licensed to act on behalf of the partnership or corporation.

The primary broker shall maintain records specifying the name of each broker responsible for the direction and supervision of each place of business. If an individual broker, who may be the primary broker, is responsible for supervising more than one place of business, the primary broker shall, upon written request of the commissioner, file a written statement specifying the procedures which have been established to assure

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that all salespersons and employees are adequately supervised. Designation of another broker to supervise a place of business does not relieve the primary broker of the ultimate responsibility for the actions of licensees.

B. Preparation and safekeeping of documents. Brokers shall be responsible for the preparation, custody, safety, and accuracy of all real estate contracts, documents and records, even though another person may be assigned these duties by the broker.

C. Documentation and resolution of complaints. Brokers shall investigate and attempt to resolve complaints made regarding the practices of any individual licensed to them and shall maintain, with respect to each individual licensed to them, a complaint file containing all material relating to any complaints received in writing for a period of three years.

D. Disclosure of listed property information. No broker shall allow any unlicensed person to disclose any information regarding a listed property except to state the address of the property and whether it is available for sale or lease.

4 MCAR S 1.41517 Temporary broker's permit. In the event of death or incapacity of a broker, the commissioner may issue a 45-day temporary permit to an individual who has had a minimum of two years actual experience as a licensed real estate salesperson and who is otherwise reasonably qualified to act as a broker. Upon application prior to its expiration, the 45-day temporary permit shall be renewed once by the commissioner if the applicant demonstrates that he or she has made a good faith effort to obtain a broker's license within the preceding 45 days and an extension of time will not harm the public interest.

Only those salespersons licensed to the deceased or incapacitated broker at the time of death or incapacity may conduct business for or on behalf of the person to whom the temporary broker's license was issued.

4 MCAR S 1.41518 Licensee as agent of broker; disclosure. A salesperson shall only conduct business under the licensed name

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of and on behalf of the broker to whom he or she is licensed. An individual broker shall only conduct business under his or her licensed name. A broker licensed to a corporation or partnership shall only conduct business under the licensed corporate or partnership name. A licensee shall affirmatively disclose prior to the negotiation or consummation of any transaction the licensed name of the broker under whom he or she is authorized to conduct business in accordance with this rule.

4 MCAR S 1.41519 Listing agreements.

A. Requirement. Licensees shall obtain a signed listing agreement, or other written authorization, from the owner of real property or from another person authorized to offer the property for sale or lease prior to advertising to the general public that the real property is available for sale or lease.

For the purposes of this rule "advertising" shall include placing a sign on the owner's property which indicates that the property is being offered for sale or lease.

B. Contents. All listing agreements shall be in writing and shall include:

1. A definite expiration date;

2. A description of the real property involved;

3. The list price and any terms required by the seller;

4. The amount of any compensation or commission or the basis for computing the commission;

5. A clear statement explaining the events or conditions which will entitle a broker to a commission;

6. Information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the seller with a protective list within 72 hours after the expiration of the listing agreement; and

7. The following notice in not less than ten point boldface type immediately preceding any provision of the listing agreement relating to compensation of the licensee:

"NOTICE: THE AMOUNT OR RATE OF REAL ESTATE COMMISSIONS OR FEES IS NOT FIXED BY LAW AND MAY NOT LEGALLY BE FIXED BY MEANS

OFFICE BY:

OF AN AGREEMENT BETWEEN OR AMONG COMPETING REAL ESTATE FIRMS AND COMPANIES."

C. Prohibited provisions. Licensees shall not include in a listing agreement a holdover clause, automatic extension, or any similar provision, or an override clause the length of which is more than six months after the expiration of the listing agreement.

D. Override clauses. Licensees shall not seek to enforce an override clause unless a protective list has been furnished to the seller within 72 hours after the expiration of the listing agreement.

E. Protective lists. A broker or salesperson has the burden of demonstrating that each person on the protective list has, during the period of the listing agreement, either made an affirmative showing of interest in the property by responding to an advertisement or by contacting the broker or salesperson involved or has been physically shown the property by the broker or salesperson. For the purpose of this rule the mere mailing or other distribution by a licensee of literature setting forth information about the property in question does not, of itself, constitute an affirmative showing of interest in the property on the part of a subsequent purchaser.

The protective list shall contain the following notice in boldface type:

"IF YOU RELIST WITH ANOTHER BROKER WITHIN THE OVERRIDE PERIOD AND THEN SELL YOUR PROPERTY TO ANYONE WHOSE NAME APPEARS ON THIS LIST, YOU COULD BE LIABLE FOR FULL COMMISSIONS TO BOTH BROKERS. IF THIS NOTICE IS NOT FULLY UNDERSTOOD, SEEK COMPETENT ADVICE."

The protective list need not contain this notice if the written listing agreement specifically states that after its expiration the seller will not be obligated to pay the licensee a fee or commission if the seller has executed another valid listing agreement pursuant to which the seller is obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of the real property in question.

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4 MCAR S 1.41520 Guaranteed sale programs. If a broker advertises or offers a guaranteed sale program, or other program whereby the broker undertakes to purchase real property in the event he or she is unable to effectuate a sale to a third party within a specified period of time, a written disclosure which sets forth clearly and completely the terms and conditions under which the broker agrees to purchase the property and the disposition of any profit at the time of resale by the broker must be provided to the seller prior to the execution of a listing agreement.

4 MCAR S 1.41521 Disclosure requirements.

A. Advertising. Each licensee shall identify himself or herself as either a broker or an agent in any advertising for the purchase, sale, lease, exchange, mortgaging, transfer, or other disposition of real property, whether the advertising pertains to his or her own property or the property of others.

B. Financial interests of licensee. Prior to the negotiation or consummation of any transaction, a licensee shall affirmatively disclose to the owner of real property that the licensee is a real estate broker or agent, and in what capacity the licensee is acting, if the licensee directly, or indirectly through a third party, purchases for himself or herself or acquires, or intends to acquire, any interest in, or any option to purchase, the owner's property.

C. Material facts. Licensees shall disclose to any prospective purchaser all material facts pertaining to the property, of which the licensee is aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensee is aware.

D. Nonperformance of any party. If a licensee is aware that any party to a real estate transaction is clearly unwilling or unable to perform in accordance with the terms of a purchase agreement or other similar agreement, the licensee shall immediately disclose the fact of that party's unwillingness or

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inability to perform to the other party or parties to the transaction if the licensee is aware that the other party or parties have acted or are likely to act to their detriment in reasonable reliance upon the anticipated consummation of the transaction. Whenever reasonably possible, the licensee shall inform the party who is unable or unwilling to perform of the licensee's intention to disclose this fact to the other party or parties to the transaction prior to making the disclosure.

4 MCAR S 1.41522 Prohibition on guaranteeing future profits. Licensees shall not, with respect to the sale or lease of real property, guarantee or project or permit or encourage another person to guarantee or project future profits or earnings which may result from the purchase or lease of the real property in question unless the guarantee or projection and the assumptions upon which it is based are fully disclosed and contained in the contract, purchase agreement, or other instrument of sale or lease.

4 MCAR S 1.41523 Negotiations.

A. Written offers. All offers to purchase or lease shall be promptly submitted in writing to the seller.

B. Nondisclosure of terms of offer. A licensee shall not disclose the terms of an offer to another prospective buyer or the buyer's agent prior to the presentation of the offer to the seller.

C. Closing costs. Licensees shall disclose to a buyer or a seller at or before the time an offer is written or presented that the buyer or seller may be required to pay certain closing costs, and the approximate amount of these costs.

D. Required documents. Licensees shall furnish to the parties to the transaction at the time the documents are signed or become available a true and accurate copy of listing agreements, earnest money receipts, purchase agreements, contracts for deed, option agreements, closing statements, truth-in-housing forms, energy audits, and any other record, instrument, or document which is material to the transaction and

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which is in the licensee's possession.

E. Closing statement. The listing broker or his or her designee shall deliver to the seller at the time of closing a complete and detailed closing statement setting forth all of the receipts and disbursements handled by the broker for the seller. The listing broker shall also deliver to the buyer at the time of closing a complete and detailed statement setting forth the disposition of all moneys received in the transaction from the buyer.

F. Exclusive agency agreements. A licensee shall not negotiate the sale, exchange, lease, or listing of any real property directly with the owner or lessor knowing that the owner or lessor has executed a written contract granting exclusive agency in connection with the property to another real estate broker. The licensee shall inquire of the owner or lessor whether such a contract exists.

G. Prohibition against interference with contractual relationships of others. Licensees shall not induce any party to a contract of sale or lease, option, or exclusive listing agreement, to breach the contract, option, or agreement.

H. Prohibition against discouraging use of attorney. Licensees shall not discourage prospective parties to a real estate transaction from seeking the services of an attorney.

4 MCAR S 1.41524 Compensation.

A. Licensee to receive only from broker. A licensee shall not accept a commission or other valuable consideration for the performance of any acts requiring a real estate license from any person except the real estate broker to whom he is licensed or to whom he was licensed at the time of the transaction.

B. Undisclosed compensation. A licensee shall not accept, give, or charge any undisclosed commission or realize any direct or indirect remuneration which inures to the benefit of the licensee on an expenditure made for a principal.

C. Limitation on broker when transaction not completed. When for any reason the owner fails or is unable to consummate a real estate transaction, the listing broker may not claim any

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portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser, regardless of whether the commission from the owner has been earned.

4 MCAR S 1.41525 Notice to the commissioner. Licensees shall notify the commissioner of the facts in A.-D.

A. Change of application information. The commissioner shall be notified in writing of a change of information contained in the license application on file with the commissioner within ten days of the change.

B. Civil judgment. The commissioner shall be notified in writing within ten days of a final decision or order of a court, whether or not the decision or order is appealed, regarding any proceeding in which the licensee was named as a defendant, and which alleged fraud, misrepresentation, or the conversion of funds.

C. Disciplinary action. The commissioner shall be notified in writing within ten days of the suspension or revocation of a licensee's real estate or other occupational license issued by this state or another jurisdiction.

D. Criminal offense. The commissioner shall be notified in writing within ten days if a licensee is charged with, adjudged guilty of, or enters a plea of guilty or nolo contendere to a charge of a felony, gross misdemeanor, misdemeanor, or any comparable offense.

4 MCAR S 1.41526 Access to governing statutes and rules. Every real estate office and branch office shall have a current copy of Minn. Stat. chs. 82 and 83 and the rules adopted thereunder available for the use of licensees.

4 MCAR S 1.41527 Rental services.

A. License. A rental service shall obtain a real estate broker's license prior to engaging in business or holding itself out as being engaged in business. No person shall act as a real estate salesperson on behalf of a rental service without first obtaining a real estate salesperson's license on behalf of the

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rental service.

B. Dissemination of unit information. A rental service shall not provide information regarding a rental unit without the express authority of the owner of the unit.

C. Availability of unit. A rental service shall not represent a unit as currently available unless its availability has been verified within 72 hours preceding the representation.

D. Advertising. A rental service shall not advertise in a manner which is misleading with regard to fees charged, services provided, the availability of rental units or rental terms or conditions.

4 MCAR S 1.41528 Fraudulent, deceptive, and dishonest practices. For the purposes of Minn. Stat. S 82.27, subd. 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

A. Act on behalf of more than one party to a transaction without the knowledge and consent of all parties;

B. Act in the dual capacity of licensee and undisclosed principal in any transaction;

C. Receive funds while acting as principal, which funds would constitute trust funds if received by a licensee acting as an agent unless the funds are placed in a trust account. Funds need not be placed in a trust account if a written agreement signed by all parties to the transaction specifies a different disposition of the funds, see 4 MCAR S 1.41505 D.;

D. Violate any state or federal law concerning discrimination intended to protect the rights of purchasers or renters of real estate;

E. Make a material misstatement in an application for a license or in any information furnished to the commissioner;

F. Procure or attempt to procure a real estate license for himself or herself or any person by fraud, misrepresentation, or deceit;

G. Represent membership in any real-estate related organization in which the licensee is not a member;

H. Advertise in any manner which is misleading or inaccurate

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with respect to properties, terms, values, policies, or services conducted by the licensee;

I. Make any material misrepresentation or permit or allow another to make any material misrepresentation;

J. Make any false or misleading statements, or permit or allow another to make any false or misleading statements of a character likely to influence, persuade, or induce the consummation of a transaction contemplated by Minn. Stat. ch. 82;

K. Fail within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to another;

L. Commingle with his or her own money or property trust funds or any other money or property of another held by the licensee;

M. Demand from a seller a commission to which the licensee is not entitled;

N. Pay or give money or goods of value to an unlicensed person for any assistance or information relating to the procurement by a licensee of a listing of a property or of a prospective buyer of a property. This paragraph does not apply to money or goods paid or given to the parties to the transaction;

O. Commingle personal or other funds with trust funds or fail to maintain a trust account at all times, as provided by law;

P. Engage, with respect to the offer, sale, or rental of real estate, in an anticompetitive activity.

A licensee shall be deemed to have violated this provision if he has been found to have violated the Minnesota Antitrust Law of 1971, Minn. Stat. SS 325D.49-325D.66 by a final decision or order of a court of competent jurisdiction.

Nothing in 4 MCAR S 1.41528 limits the authority of the commissioner to take actions against a licensee for fraudulent, deceptive, or dishonest practices not specifically described in this rule.

4 MCAR S 1.41529 Salespersons; initial real estate education

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requirements.

A. Generally. An approved 90-hour course of initial education shall consist of three 30-classroom-hour courses to be designated as Course I, Course II, and Course III. Pursuant to Minn. Stat. S 82.22, subd. 6, each applicant for a salesperson's license or salesperson is required to complete all courses successfully. Courses I, II, and III must be taken in sequence and may not be taken concurrently.

B. Salesperson's examination. Applicants must successfully complete the salesperson's examination within one year after the successful completion of Course I. After this date, credit for Course I will expire and successful completion of the first 30-hour course must be repeated before taking the salesperson's examination.

An exception will be made for students pursuing a full-time course of study in either a two-year or four-year real estate education program. The burden of demonstrating full-time status is on the student. Applicants must successfully complete the salesperson's examination within one year after the successful completion of the two-year or four-year course of study.

C. Application for salesperson's license. Applicants must apply for a salesperson's license within one year after successful completion of the licensing examination. Applicants who fail to apply for a license within the one-year period must retake Course I and successfully complete the examination.

D. Post-licensing education course. Courses II and III must be completed within one year after obtaining a salesperson's license.

E. Alternative means of completing initial education. Applicants may elect to complete Course II and Course III prior to examination or licensure and shall receive credit for those courses successfully completed if the applicant is otherwise in compliance with the time limitations set forth in B. and C.

F. Limitations on course substitutions. No course may be substituted for Course I.

Written requests for substitutions for Courses II and III

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shall be granted if the request is submitted no later than six months prior to the date upon which that education is due to be completed, if:

1. The salesperson is engaged exclusively in a specialized field, such as property management, and the course proposed to be substituted for Course II or III provides the student with at least 30 hours of instruction in that field; or

2. The salesperson demonstrates successful completion of a course in another jurisdiction which is substantially similar to Course II or III.

G. Limitation on use of certain education courses. Courses I and II may not be taken for credit towards a licensee's continuing education requirements.

Any Course III may be taken for credit towards a licensee's continuing education requirements if the licensee has not previously received credit for that course or a substantially similar course.

H. Textbooks required. Courses I, II, and III shall require the use of a textbook. The textbook shall cover substantially the subject matter of the course. The textbook shall be current and may be disallowed by the commissioner upon demonstration that it contains material errors.

I. Completion of initial education. Successful completion of Courses I, II and III includes full-time classroom attendance throughout the course, completion of required assignments or reading materials if applicable, and passage of an examination designed by the school which is sufficiently comprehensive to measure the student's knowledge of all aspects of the course.

J. Course I.

1. Hours. Course I shall incorporate the following number of hours for each of the following topics, for a total of 30 hours:

(a) Introduction to real estate, one hour;

(b) Real estate licensing law (Minn. Stat. chs. 82 and 83), four hours;

(c) Law of agency, four hours;

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(d) Law of contracts, five hours;

(e) Real estate financing, six hours;

(f) Types and classifications of property, three hours;

(g) Examination of title, one hour; and

(h) Title closing, six hours.

2. Curriculum. The Course I curriculum shall be based on the following outline:

I. Introduction to real estate

A. Overview of Course I

1. Course goals

2. Attendance

3. Examination policy

4. Course and instructor evaluation

B. Scope of industry

C. Areas of specialization

D. Industry terminology

E. Professional standards and ethics

F. Broker-salesperson relationship

II. Real estate license law, (Minn. Stat. ch. 82), subdivided land sales practices act (Minn. Stat. ch. 83) and securities act (Minn. Stat. ch. 80A)

A. Real estate license law

1. Purpose of law and rules

2. Administration of law

3. Substantive provisions of law

a. Trust accounts

b. Prohibition of fraudulent, deceptive or dishonest practices

c. Standards of conduct

d. Federal and state antidiscrimination laws

e. Licensing requirements

f. Education requirements

g. Real estate education, research and recovery fund

B. Subdivided land sales practices act

1. Scope of law

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2. Registration and public disclosure provisions
3. Licensing requirements

C. Securities act; potential applicability to real estate

III. Law of agency

A. Agent and agency

1. Broker-principal relationship
2. Termination of relationships
3. Dual agency
4. Cooperative broker

B. Duties of broker and agent

1. Accountability
2. Fiduciary responsibility to seller
3. Full disclosure

C. Listing contract

1. Types
2. Essential elements of a listing agreement
3. Multiple listing
4. Commissions earned

D. Responsibilities to buyer

IV. Contracts

A. Definition

1. Types
2. Essentials
3. Breach; remedies

B. Purchase agreements

1. Examination and analysis

C. Other types of contracts

1. Contract for deed
2. Options

D. Cancellation of contract

E. Property description

1. Lot and block number
2. Metes and bounds
3. Government survey
4. Datum planes

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5. Measurement and mathematics

V. Real estate financing

A. Note as evidence of indebtedness

B. Sources of mortgage funds

1. Lenders

2. Secondary mortgage market

3. Owner financing

C. Mortgage

1. Legal elements

2. Theories

a. Lien

b. Title

3. Mortgage clauses

a. Covenants

1. Indebtedness

2. Insurance

3. Removal

4. Taxes

5. Acceleration clause

6. Warranty of title

b. Special clauses

1. Attorney's fees

2. Receiver

3. Sale in one parcel

4. Trust

5. Prepayment penalties

6. Subordination

7. Due-on-sale clause

8. Condemnation clause

9. Defeasance clause

10. Good repair

D. Types of mortgages

1. FHA

2. VA

3. Conventional/insurance conventional, types currently available

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4. Other
5. Points

E. Mortgage assumption and nonalienation

F. Contract for deed financing

G. Foreclosure (default)

1. Mortgage
2. Contract for deed

H. Buyer qualifications

1. Credit information
2. Standards for approval

I. Usury law

VI. Types of property

A. Classification

1. Real property
2. Personal property
3. Fixtures

B. Title

1. Private grant
2. Public grant
3. Political relations
   a. Eminent domain
   b. Escheat
4. Public policy
   a. Adverse possession
   b. Prescription
   c. License

C. Estates and interests in land

1. Estates
2. Fee simple
3. Life estate (waste)
4. Remainders and reversions
5. Other

D. Concurrent ownership

1. Joint tenancy
2. Tenancy in common
3. Other

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E. Easements

VII. Examination of title

A. History

B. Examination of abstract

C. Title insurance

1. Owners

2. Purchasers

3. Mortgage

D. Title registration (Torrens)

VIII. Title closing

A. Review of topics I-VII

B. Closing checklist

C. Methods of closing

1. Closing through escrow

2. Other

D. Delivery of deed

E. Responsibilities of buyer and seller

1. Taxes and liens

2. Reduction certificate (assumption statement)

3. Insurance

4. Leases

5. Bill of sale

6. Title search

7. Survey

8. Leases

9. Certificate of occupancy

10. Violations (ordinances)

11. Apportionments

F. Adjournment of closing (settlement)

G. Real estate settlement procedures act

1. Lender requirements

2. Truth-in-lending (regulation Z)

3. Settlement (closing)

H. Broker's responsibilities

K. Course II.

1. Hours. Course II shall incorporate the following

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number of hours for each of the following topics, for a total of 30 hours:

(a) Deeds, three hours;

(b) Search and examination of title, one hour;

(c) Residential appraisal, six hours;

(d) Residential construction, two hours;

(e) Land development and use, three hours;

(f) Condominiums, cooperatives, planned unit developments, and manufactured housing, three hours;

(g) Taxation, four hours;

(h) Investment and appraisal, four hours;

(i) Real property management, two hours; and

(j) Leases and leasing, two hours.

2. Curriculum. The Course II curriculum shall be based on the following outline:

I. 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 acknowledgement

8. Seal

B. Delivery

C. Recording

D. Types of deeds

1. Quitclaim

2. Warranty deed and covenants

3. Special warranty deed

4. Other

E. Covenants running with the land

F. Validity

II. Search and examination of title

A. Object of search

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1. Chain of title
2. Recording acts

B. Grantor-grantee system of indexing

1. Running the chain of title
2. Grantors
3. Mortgages
4. Lis pendens
5. Judgments
6. Liens
7. Taxes
8. Probate court
9. Special assessments

C. Lot and block indexing

III. Residential appraisal

A. Values

1. Economic concepts
2. Value and price
3. Cost
4. Elements of value
   a. Physical
   b. Economic
   c. Social
   d. Legal
5. Characteristics of value
   a. Utility
   b. Scarcity, demand
   c. Transferability
6. Principles of value
   a. Substitution
   b. Conformity
   c. Anticipation

B. Fundamental considerations

1. Population trends
2. Neighborhood characteristics
3. Building description
4. Site evaluation

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5. Market value

C. Highest and best use

1. Factors of production

2. Diminishing returns

3. Over and under improvement

D. Approaches to value

1. Cost

2. Market

3. Income

E. Appraisal report

IV. Residential construction

A. Government regulations

B. Architectural styles

C. Plans and specifications

1. Foundations

2. Exterior

3. Interior

D. Disclosure

V. Land development and use

A. Public land use control

1. City planning

a. Enabling acts

b. Planning commissions

c. Capital improvements

d. Master planning

e. Future scope of planning

2. Zoning

a. Purpose

b. Form of ordinances

c. Exclusionary zoning

d. Board of appeals

e. Nonconforming use

f. Variance

g. Green acres law

3. Building codes

4. Environmental impact statements

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5. Subdivision regulations

B. Prepurchase

1. Analysis of market

2. Site selection

3. Land costs

4. Drainage, soil tests, topography

5. Utilities

6. Road costs

7. Transportation, schools, shopping

8. Covenants

9. Government

10. Financing

a. Purchase, option or escrow

b. Rolling option

C. Planning

1. Subdivision

2. Planned urban development

3. Filing the plat

4. Consumerism and environmental protection

5. Subdivided land sales and practices act

6. State and local land use regulations

D. Urban development and revitalization

VI. Condominiums, cooperatives, planned unit developments and manufactured housing

A. Cluster housing

1. History

2. Economics

a. Land use efficiency

b. Amenities

B. Condominiums

1. Rights and obligations

a. Declaration

1. Bylaws

2. Rules and regulations

3. Assessments and collections

4. Homeowners associations

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b. Map
c. Conveyance
d. Management agreement
1. Duties
2. Enforcement of rules
3. Collection of fees and dues
2. Financing
3. Time share ownership
4. Minnesota Condominium Act
5. Conversions
a. Physical changes
b. Feasibility
c. Tenant rights
d. Moratoriums

C. Cooperatives
1. Cooperator (individual shareholder)
2. Refinancing methods
3. Owner's association
4. Tax treatment (the 80 percent rule)
5. Other forms

D. Planned unit developments
1. Planned land uses
2. Organization

E. Manufactured housing
1. Definition
2. Considerations
a. Site
b. Value
c. Safety
3. Financing

VII. Taxation

A. Real property taxes
1. Tax assessment levies
a. City
b. County
c. School district

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2. Obtaining tax information
3. Appraisal and classification
4. Homestead status

B. Residential property

1. Basis
2. Adjustment of basis
3. Installment plan sales
4. Tax deferral on sale and repurchase
5. Tax implications of residential ownership

C. Income producing property

1. Long term capital gain and loss
2. Offsetting gains and losses
3. Classification

D. Depreciation on real property

E. Residential rehabilitation expense

VIII. Investment and appraisal

A. Risks

1. Purchasing power
2. Market
3. Interest rates
4. Earning power
5. Liquidity

B. Leverage

C. Cash and tax flow

D. Investment analysis

1. Effective gross income
2. Margin
3. Return on investment

E. Real estate syndication

1. General partners
2. Limited partners
3. Regulation
4. Risks and rewards

F. Real estate investment trusts

G. Appraisal of investment property

1. Net operating income

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a. Converting net income to value
b. Rate of return (discount rate)
2. Estimate of value

IX. Real property management

A. Background
1. Development of management
2. Scope of management
a. Residential
b. Commercial
c. Industrial
d. Agricultural
3. Professional management
4. Types of owners

B. Management plan
1. Objectives
2. Regional analysis
3. Neighborhood analysis
4. Property analysis
a. Physical
b. Fiscal
c. Operational
5. Market analysis
a. Costs and profit
b. Comparable
c. Escalation base
6. Analysis of alternatives
7. Conclusions and recommendations

C. Government and real estate management
1. Local government
a. Rent control
b. Handicapped requirements
c. Fire code requirements
d. Miscellaneous ordinances
2. State government
a. Landlord-tenant laws
b. Nondiscrimination

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c. Extension of tenants' rights

3. Federal government

a. Nondiscrimination

b. HUD subsidies

c. Regulated housing

4. Housing programs

D. Management operations

1. Marketing

2. Tenant underwriting

3. Tenant administration

4. Physical plant maintenance

a. Preventative maintenance

b. Energy management

5. Operational record keeping

a. Physical records

b. Tenant files

c. Budget

d. Fiscal

X. Leases and leasing

A. Statute of frauds

B. Elements of a contract (review)

C. Types of tenancies

1. Estate for years

2. Tenancy from year to year

3. Tenancy at will

4. Tenancy at sufferance

5. Holdover tenants

D. Types of leases

1. Gross

2. Net

3. Percentage

4. Land

5. Farm

E. Form of lease

1. Common covenants

2. Residential leases

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3. Responsibilities of lessor

4. Responsibilities of lessee

5. Termination

a. Expiration

b. Automatic renewal

c. Breach of conditions

d. Abandonment

e. Eviction

6. Minnesota landlord-tenant act

L. Course III.

1. Hours. Course III shall be a 30-hour course consisting of one of the following:

(a) Real estate appraisal, 30 hours;

(b) Closing procedures, 30 hours;

(c) Farm and ranch brokerage, 30 hours;

(d) Real estate finance, 30 hours;

(e) Real estate investment, 30 hours;

(f) Real estate law, 30 hours;

(g) Real estate management, 30 hours;

(h) Real estate mathematics, 30 hours;

(i) Business brokerage, 30 hours; or

(j) A combination course of no more than three of the subjects set forth in (a)-(i), 30 hours.

2. Curriculum.

(a) The real estate appraisal course shall be based on the following outline:

Real estate appraisal

I. Nature, importance and purposes of appraisals

II. Nature, importance and characteristics of property and value

III. Principles controlling real estate value

IV. The appraisal process

V. Economic and neighborhood analysis

VI. Considerations and fundamentals of site evaluation

VII. Construction methods and materials

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VIII. Architectural styles and utility

IX. Cost approach: estimating costs and accrued depreciation

X. Analysis

XI. Market data approach

XII. Income approach: income and expense analysis, capitalization theory and techniques

XIII. Reconciliation and final value estimate

XIV. Writing the report

XV. Course examination

(b) The closing procedures course shall be based on the following outline:

Closing procedures

I. Overview of closing: persons present, protocol, timeliness

II. Review of purchase agreement, supplements, addenda

III. Compilation of data needed to prepare a closing file

IV. Legal documents

V. Abstracts, title procedures

VI. Review of settlement costs: buyer, seller

VII. Closing statement: prorations and other math

VIII. Review of sample cases

IX. Follow-up procedures

X. Course examination

(c) The farm and ranch brokerage course shall be based on the following outline:

Farm and ranch brokerage

I. Responsibilities of broker to seller and buyer

II. Selling options

III. Sources of financing

IV. Factors in selecting a farm or ranch

V. Advantages and disadvantages of irrigation systems

VI. Determination of farm and ranch value

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VII. Considerations in the constructing of purchase agreements

VIII. Course examination

(d) The real estate finance course shall be based on the following outline:

Real estate finance

I. Introduction to the mortgage market

II. Sources of mortgage money

III. Real estate investment trusts and syndication

IV. Mortgage banking

V. Financing residential properties

VI. Financing income producing properties

VII. Construction and land development loans

VIII. Special techniques used in financing real estate

IX. Junior mortgages

X. Land contracts

XI. Financing long term leases

XII. Course examination

(e) the real estate investment course shall be based on the following outline

Real estate investment

I. Real estate investments

II. Discounted cash flow analysis

III. Measuring investment returns

IV. Estimation of real estate cash flows

V. Real estate financing

VI. The tax process

VII. Acquisitions and operations

VIII. Dispositions and exchanges

IX. After tax investment analysis

X. Speculative land investment

XI. Multiple exchanges

XII. Course examination

(f) The real estate law course shall be based on the following outline:

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Real estate law

I. The process of real estate law

II. Real estate brokerage

III. Contract for the sale of real estate

IV. Property conveyance

V. Title insurance and closing

VI. Property ownership and taxes

VII. Estates in land and landlord/tenant relationships

VIII. Cooperatives, condominiums and planned unit developments

IX. Real estate lending and land use regulations

X. Course examination

(g) The real estate management course shall be based on the following outline:

Real estate management

I. Overview and economics of real estate management

II. Government involvement

III. The management plan

IV. Owner relations and record keeping

V. Marketing and leasing

VI. Property operations

A. Tenant administration

B. Physical plant maintenance

C. Staffing and employee relations

VII. Residential management

A. Rental housing

B. Condominiums and cooperatives

VIII. Commercial management

A. Office building and special purpose properties

B. Shopping centers and retail properties

IX. The management office

X. Creative property management

XI. Course examination

(h) The real estate mathematics course shall be based

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on the the following outline:

Real estate mathematics

I. Functions

A. Percentages, fractions, decimals: equivalencies, functions

B. Basic geometric rules

C. Ratio, proportion, scale

D. Basic algebraic operations

II. Areas of application to real estate

A. Broker trust accounts

B. Sales and listings

C. Valuation and spatial problems

D. Finance

E. Income and investment property

F. Closing

III. Course examination

(i) The business brokerage course shall be based on the following outline:

I. Business financial statements

II. Financial statement ratio analysis

III. Cash flow, rate of return, and breakeven analysis

IV. Competitive market analysis

V. Valuation of the business

VI. Developing the business plan

VII. Qualifying the buyer

VIII. Terms of the purchase agreement

IX. Financing the business opportunity

X. Evaluation of business risk

XI. Course examination

(j) A combination course shall consist of no more than three of the preceding nine subjects and shall devote at least ten hours to each subject. A school which proposes to offer a combination Course III shall 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

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devoted to each topic.

3. Course objectives

(a) Real estate appraisal. Upon completion of the real estate appraisal course, a student should be able to explain the nature, importance and characteristics of the factors affecting property value; perform an economic and neighborhood analysis; discuss and apply the cost, market and income approaches to value; estimate the value of 1-4 units of residential property; and prepare a written report of the appraisal.

(b) Closing procedures. Upon completion of the closing procedures course, a student should be able to develop a checklist of activities and documents needed to carry out a closing; coordinate the compilation of information and documents from all parties to a closing; interpret all information on a purchase agreement; compute prorations and other calculations required for a closing; complete acceptable legal formats for all documents serving to transfer title; prepare an accurate closing statement; and develop a closing file system.

(c) Farm and ranch brokerage. Upon completion of the farm and ranch brokerage course, a student should be able to utilize the management assistance available to brokers, buyers and sellers of farm real estate; determine the value of farm or ranch real estate; understand the components that make up farm and ranch real estate; identify and describe methods of financing farm and ranch property; and understand the considerations in the preparation of a purchase agreement for the sale of farm or ranch property.

(d) Real estate finance. Upon completion of the real estate finance course, a student should be able to identify and describe methods of financing real property; explain the role of financial institutions in financing the purchase or sale of real estate; utilize compound interest or "time value of money" concepts to facilitate investment and financing decisions; apply these methods to solve client financing problems; and discuss the practices and procedures of loan application, analysis, closings and foreclosure.

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(e) Real estate investment. Upon completion of the real estate investment course, a student should be able to understand and describe investment tax considerations such as depreciation, capital gains, installment sales and exchanges; utilize the mathematics of real estate investment; perform feasibility studies including market analysis; perform property analysis; and apply techniques of investment analysis to specific types of real estate.

(f) Real estate law. Upon completion of the real estate law course, a student should be able to understand the process of real estate law, its historical origins, and the legal responsibilities placed upon real estate salespersons and brokers; prepare and understand the basic contracts of property conveyance; explain the major legal aspects of property conveyance, property ownership, insurance settlement procedures, taxes and leasing agreements; recognize and apply the specific requirements in planned unit developments, condominium and cooperative housing transactions; and understand the requirements of real estate lending and land use regulations.

(g) Real estate management. Upon completion of the real estate management course, a student should be able to explain and discuss the scope, nature and importance of property management; outline the essentials of a management plan; and understand the significant differences between residential, commercial, industrial and retail property management.

(h) Real estate mathematics. Upon completion of the real estate mathematics course, a student should be able to identify required mathematical procedures to be used in real estate transactions; perform required mathematical functions with a high level of accuracy; isolate and explain the steps of each calculation; and explain mathematical procedures to clients as needed.

(i) Business brokerage. Upon completion of the business brokerage course, a student should be able to evaluate business financial statements, qualify potential buyers, review relevant markets including competition, develop a business plan,

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value the firm's assets and goodwill, negotiate the terms of a purchase agreement, and explain terms of financing, valuation, and business risk to a potential buyer.

4 MCAR S 1.41530 Continuing education.

A. Generally. Continuing education shall consist of approved courses which impart substantive and procedural knowledge in the real estate field.

B. Attendance. Courses must be attended in their entirety in order for a licensee to obtain credit. No credit will be given for partial attendance at a course.

C. Credit approved. Courses will be approved only in hour segments. No fractional hours will be approved, nor will applicants be given credit for any period of less than a whole hour.

D. Examinations. Course examinations will not be required for continuing education courses unless they are required by the school or the licensee elects to take Course III for continuing education credit.

E. Textbooks. Textbooks are not required to be used for continuing education courses. In instances in which 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.

F. Credit earned. Upon completion of approved courses, students shall earn one hour of continuing education credit for each hour of attendance and approved instructors shall earn three hours of continuing education credit for each hour of instruction. Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor.

G. Disapproved courses. Approval will not be granted for courses (1) designed to prepare students for passing any licensing examinations; (2) in mechanical office or business skills, including typing, speed-reading, use of calculators or

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other machines or equipment; (3) in sales promotion, including meetings held in conjunction with the general business of the licensee's broker; (4) or in motivation, salesmanship, psychology or time management.

H. Continuing education credit for Course III. Licensees may attend or teach Course III for continuing education credit. Credit will be given for less than the entire Course III only for combination courses offered pursuant to 4 MCAR S 1.41529 L.1.j. Credit will be given only for attendance at segments of the combination Course III which completely cover a subject. An examination will be required only if the licensee takes the entire combination course or if the school requires a separate examination for each subject covered.

The burden of demonstrating that courses impart substantive and procedural knowledge in the real estate field is upon the person seeking approval or credit.

4 MCAR S 1.41531 General real estate education requirements. Rules 4 MCAR SS 1.41532-1.41548 constitute general requirements applicable to all real estate education courses.

4 MCAR S 1.41532 Course approval.

A. Generally. Courses must be approved by the commissioner in advance and will be approved or disapproved on the basis of their compliance with the provisions of Minn. Stat. S 82.22 and the rules adopted thereunder.

No advance approval is required for continuing education offerings if the licensee demonstrates attendance at an offering which was in substantial compliance with Minn. Stat. ch. 82 and the rules adopted thereunder.

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

B. Permitted course offerings. Courses complying with Minn. Stat. ch. 82 and the rules adopted thereunder may be offered or sponsored by schools.

Coordinators must immediately notify the commissioner of any material change in an application for approval or in the

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exhibits attached to it.

C. Limitation on advertising. Courses may not be advertised prior to approval.

D. Applications. Applications for course approval will be accepted on forms prescribed by the commissioner no later than 30 days prior to the course offering and shall include the following:

1. The course title;

2. The date, time, and place of the course offering;

3. The name, address, and telephone number of the sponsoring entity;

4. The name, address, and telephone number of the course coordinator;

5. The name, address, and telephone number of the instructor;

6. The name, edition, and date of publication of the text to be used, if applicable;

7. A detailed outline of the course offering, or a statement of compliance with the prescribed outlines for Course I, II, or III; and

8. Compliance with the service of process provisions of Minn. Stat. S 82.31, if applicable.

The form in 4 MCAR S 1.41555 (RE-3) shall be used for Courses I, II, and III and the form in 4 MCAR S 1.41558 (RE-6) shall be used for continuing education courses.

E. Subsequent offerings of courses. Approval shall be granted for subsequent offerings of identical continuing education courses without requiring a new application if a Notice of Subsequent Offerings, 4 MCAR S 1.41560 (RE-8), is filed with the commissioner at least 30 days in advance of the date the course is to be held.

Subsequent offerings of identical Courses I, II, and III do not require the approval of or notice to the commissioner.

4 MCAR S 1.41533 Courses open to all. All course offerings shall be open to any interested individuals. Discounts of tuition shall not be given because of affiliation with any

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particular brokerage or franchise.

4 MCAR S 1.41534 Course coordinator.

A. Requirement. Each course of study shall have one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with Minn. Stat. ch. 82 and the rules adopted thereunder. Schools may engage an additional approved coordinator in order to assist the coordinator or to act as a substitute for the coordinator in the event of an emergency or illness.

B. Qualifications. The commissioner shall approve as a coordinator a person meeting one or more of the following criteria:

1. A minimum of the previous five years as an active real estate broker;

2. At least three years of full-time experience in the administration of an education program during the five-year period immediately preceding the date of application; or

3. A degree in education plus two years real estate experience.

Application for approval must be submitted on the form in 4 MCAR S 1.41554 (RE-2).

C. Responsibilities. A coordinator shall be responsible for:

1. Assuring compliance with all laws and rules pertaining to real estate education;

2. Assuring that students are provided with current and accurate information relating to the laws and rules governing their real estate activity;

3. Supervising and evaluating courses and instructors. Supervision shall include 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. Furnishing the commissioner, upon request, with copies of evaluations of instructors or courses;

5. Investigating complaints related to course offerings and instructors;

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6. Maintaining records relating to course offerings, instructors, and student attendance for a period of three years from the date on which the course was completed. These records shall be made available to the commissioner upon request.

In the event that a school should cease operation for any reason, the coordinator shall be responsible for maintaining the records or providing a custodian for the records acceptable to the commissioner. Under no circumstances will the commissioner act as custodian of the records. In order to be acceptable to the commissioner, custodians must agree to make copies of acknowledgements available to students at a reasonable fee.

7. Assuring that the coordinator is available to instructors and students throughout course offerings and providing the name of the coordinator and a telephone number at which the coordinator can be reached;

8. Attending workshops or instructional programs as reasonably required by the commissioner;

9. Reporting on the form in 4 MCAR S 1.41557 (RE-5) the attendance of licensed students in Courses II and III to the commissioner within 14 days of their completion of the course; and

10. Providing students with Course Completion Certificates, 4 MCAR S 1.41553 (RE-1), for Courses I, II, and III, and continuing education courses.

4 MCAR S 1.41535 Instructors.

A. Requirement. Each course of study shall have an instructor who is qualified by education, training, or experience to insure competent instruction.

B. Qualifications. The following provisions relate to the approval and qualification of instructors:

1. Applicants shall submit requests for instructor approval on the form in 4 MCAR S 1.41556 (RE-4) for Courses I, II, and III and the form in 4 MCAR S 1.41559 (RE-7) for continuing education courses. Requests must be submitted at least 30 days prior to instruction in an approved course;

2. Applicants for Courses I, II, and III shall be

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approved if they achieve a rating of 70 points or higher based upon the scale in Exhibit 4 MCAR S 1.41535 B.-1.

Exhibit 4 MCAR S 1.41535 B.-1.

Ratings for Applicants Seeking Approval as Instructors of Courses I, II, and III

POINTS	CRITERIA
20	2-year degree or certificate;
40	4-year degree;
50	post graduate degree;
60	2-year real estate degree or certificate;
70	4-year real estate degree or certificate. Points may not be accumulated in the case of individuals holding more than one degree or certificate;
10	Each 45 hours of continuing real estate education attended or taught. No points will be allowed for periods of less than 45 hours;
30	First three-year period in which engaged full-time in the real estate industry as a licensed broker or salesperson or, in the case of applicants for Course III, the first three-year period in which engaged full-time in a business or profession relating to the subject being taught. No points will be allowed for an applicant who has been licensed for

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less than three years or who has been engaged in a related business or profession for less than three years;

Each full year, after the first full three years, in which engaged full-time in the real estate industry as a licensed broker or salesperson or, in the case of applicants for Course III, each full year, after the first full three years, in which engaged full-time in a business or profession relating to the subject being taught.

3. The same instructor may teach all three courses. Instructors may engage a nonapproved or guest instructor to teach up to ten hours of specialized coursework covered in Course I, II, or III. Approved instructors remain responsible for complying with the provisions of C.; and

4. Continuing education instructors must have either:

a. a degree in any area plus two years practical experience in the subject area being taught;

b. five years practical experience in the subject area being taught;

c. a college or graduate degree in the subject area being taught; or

d. have held a broker's license for three years or have three years practical experience in the subject area being taught. These individuals shall also have completed at least 60 hours of approved continuing education in the subject area being taught.

C. Responsibilities. Approved instructors shall be

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responsible for the following:

1. Compliance with all laws and rules relating to real estate education;

2. Providing students with current and accurate information;

3. Maintaining an atmosphere conducive to learning in the classroom;

4. 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 such workshops or instructional programs as are reasonably required by the commissioner.

4 MCAR S 1.41536 Prohibited practices for coordinators and instructors.

A. Generally. In connection with an approved course coordinators and instructors shall not:

1. Recommend or promote the services or practices of any particular real estate brokerage, franchise, coordinator, instructor or school;

2. Encourage or recruit individuals to engage the services of, or become associated with, any particular real estate brokerage or franchise;

3. Use materials, clothing, or other evidences of affiliation with any particular real estate brokerage or franchise;

4. Require students to participate in other programs or services offered by the school, coordinator, or instructor;

5. Take a Minnesota real estate licensing examination without the prior approval of the commissioner;

6. Attempt, either directly or indirectly, to discover questions or answers on a real estate licensing examination; or

7. Disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations.

B. Notification of misconduct. Coordinators and instructors

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shall notify the commissioner within ten days of a felony conviction or of disciplinary action taken against a real estate or other occupational license held by the coordinator or instructor.

C. Coordinators and instructors shall notify the commissioner within ten days of any change in the information set forth in the application for approval on file with the commissioner.

4 MCAR S 1.41537 Extensions. Upon appropriate showing of a bona fide financial or medical hardship, the commissioner may extend the time period during which post-licensing or continuing education instruction must be successfully completed. Loss of income resulting from cancellation of a license is not a bona fide hardship. Requests for extensions must be submitted in writing no later than 45 days prior to the date of license cancellation and shall include an explanation and verification of the hardship, and a verification of enrollment in an approved course of study and the dates during which the course will be held.

4 MCAR S 1.41538 Waivers. Required real estate education shall not be waived for any licensee or applicant for a license.

4 MCAR S 1.41539 Fees. Fees for approved courses and related materials shall be reasonable and clearly identified to students. In the event that a course is cancelled for any reason, all fees shall be returned promptly. In the event that a course is postponed for any reason, students shall 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 a course, school policies regarding refunds shall govern.

4 MCAR S 1.41540 Facilities. Each course of study shall be conducted in a classroom or other facility which is adequate to implement the offering. Approved courses shall not be held on the premises of a real estate brokerage, franchise, or an

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affiliate thereof.

4 MCAR S 1.41541 Conflict of interest. A course will not be approved if it is offered by a person who derives substantial income from the real estate brokerage business.

4 MCAR S 1.41542 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 of the necessary materials. Outlines and any other materials which are reproduced shall be of readable quality.

4 MCAR S 1.41543 Advertising.

A. Generally. Advertising must be truthful and not deceptive or misleading.

B. Approval statement. No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering may be circulated or distributed in this state unless the following statement is prominently displayed on the cover of it:

1. For initial education courses, "This course has been approved by the Commissioner of Securities and Real Estate pursuant to Minn. Stat. S 82.22, subd. 6 for initial education courses;" or

2. For continuing education courses, "This course has been approved by the Commissioner of Securities and Real Estate pursuant to Minn. Stat. S 82.22, subd. 13, relating to continuing real estate education."

The preceeding language need not be displayed on the cover of any out-of-state offering advertisement; however, it is the responsibility of the school to provide students with evidence that the course has been approved.

C. Approved course advertisements. Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

4 MCAR S 1.41544 Notice. At the beginning of each approved

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offering, the following notice shall be read to students: "This real estate educational offering is recognized by the Commissioner of Securities and Real Estate as satisfying ..... hours of credit toward ..... (choose one, or more, of the following: prelicensing, postlicensing, or continuing) real estate education requirements pursuant to Minn. Stat. S 82.22. If you have any comments about this real estate offering, please mail them to the Commissioner of Securities and Real Estate, 500 Metro Square Building, St. Paul, Minnesota 55101."

4 MCAR S 1.41545 Audits. The commissioner reserves the right to audit subject offerings with or without notice to the school.

4 MCAR S 1.41546 Disciplinary action. The commissioner may deny, censure, suspend, or revoke the approval of a coordinator, instructor, or course if it is determined that they are not in compliance with Minn. Stat. ch. 82 or the rules adopted thereunder.

4 MCAR S 1.41547 Course completion certificates. Applicants for a salesperson's license shall submit to the commissioner, along with their application for licensure, a copy of the Course Completion Certificate, 4 MCAR S 1.41553 (RE-1), for Course I, and for Courses II and III if completed prior to being licensed.

Students are responsible for maintaining copies of Course Completion Certificates.

4 MCAR S 1.41548 Reports to commissioner. Continuing education credits shall be reported by the licensee on the form in 4 MCAR S 1.41561 (RE-9).

Forms will not be accepted unless they reflect the entire 45 required hours. Incomplete forms will be returned to the licensee.

Forms must be received by the commissioner no later than June 15 of the year in which the credits are due. Forms which are mailed shall be deemed timely received if addressed to: Real Estate Licensing, 500 Metro Square Building, Saint Paul, MN

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55101, and postmarked prior to 12:01 a.m. on June 14. Licensees are encouraged to submit the form as soon as they have completed the 45 hours of continuing education credit.

4 MCAR SS 1.41549 Automatic transfer of salesperson's license.

A. Applicability. A salesperson may utilize the automatic license transfer provisions of Laws 1982, ch. 478, section 1, subdivision 9, clause (b) if the salesperson commences his or her association with the broker to whom he or she is transferring, as evidenced by the dates of the signatures of both brokers on the form in 4 MCAR S 1.41562 (RE-10), within five days after terminating his or her association with the broker from whom he or she is transferring, provided the salesperson's educational requirements are not past due.

A salesperson may not utilize the automatic license transfer provisions of Laws 1982, ch. 478, section 1, subdivision 9, clause (b) if he or she has failed to notify the commissioner within ten days of any change of information contained in his or her license application on file with the commissioner or of a civil judgment, disciplinary action, or criminal offense, which notice is required pursuant to 4 MCAR S 1.41525.

B. Procedure. An application for automatic transfer shall be made only on the form in 4 MCAR S 1.41562 (RE-10). The transfer is ineffective if the form is not completed in its entirety.

The form in 4 MCAR S 1.41562 (RE-10) shall be accompanied by a $10 transfer fee, and the license renewal fee, if applicable, plus an additional $10 if the salesperson holds a subdivided land license. Cash will not be accepted. If the licensee holds a subdivided land license it must be transferred at the same time as the salesperson's license. In order for the transfer of the subdivided land license to be effective the broker to whom the salesperson is transferring must also hold a subdivided land license.

The signature on the form in 4 MCAR S 1.41562 (RE-10) of the broker from whom the salesperson is transferring must

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predate the signature of the broker to whom the salesperson is transferring. The salesperson is unlicensed for the period of time between the times and dates of both signatures. The broker from whom the salesperson is transferring shall sign and date the transfer application upon the request of the salesperson and shall destroy the salesperson's license immediately.

C. Effective date.

1. The transfer is effective when the broker to whom the salesperson is transferring signs and dates the transfer application form in 4 MCAR S 1.41562 (RE-10), provided the commissioner receives the form and fee within 72 hours after the date and time of the new broker's signature, either by certified mail or personal delivery to the commissioner's office. In the event of a delay in mail delivery, an application postmarked within 24 hours of the date of the signature of the new broker shall be deemed timely received.

2. The transfer is ineffective if the fee is paid by means of a check, draft or other negotiable or non-negotiable instrument or order of withdrawal drawn on an account with insufficient funds.

3. The salesperson shall retain the certified mail return receipt, if the transfer application is delivered to the commissioner by mail, retain a photocopy of the executed transfer application, and provide a photocopy of the executed transfer application to the broker from whom he or she is transferring.

4 MCAR S 1.41550 Approved lender is not a broker. The definition of "real estate broker" or "broker" set forth in Minn. Stat. S 82.17, subd. 4, clause (b) shall not apply to the making of a loan in connection with his or her ordinary business activities by a mortgagee or lender approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the

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federal national mortgage association.

4 MCAR S 1.41551 Applicability. Prior rules exclusively govern all suits, actions, prosecutions, or proceedings which are pending or may be initiated on the basis of facts or circumstances occurring before the effective date of these rules. Judicial review of all administrative orders issued prior to the effective date of these rules as to which review proceedings have not been instituted by the effective date of these rules is governed by prior rules.

4 MCAR S 1.41552 Withdrawal of status or application.

A. Request to commissioner. 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 30 days after receipt of a request to withdraw or within a shorter period the commissioner determines unless a revocation, suspension, or denial proceeding is pending when the request to withdraw is filed or a proceeding to revoke, suspend, deny, or to impose conditions 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 may 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.

B. Failure to renew license. If a license lapses or becomes ineffective due to the licensee's failure to file a timely renewal application or otherwise, the commissioner may institute a revocation or suspension proceeding within one year 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.

C. Revocations. If the commissioner finds that any licensee

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or applicant is no longer in existence or has ceased to do business as a broker or salesperson 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.

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4 MCAR S 1.41553 Course Completion Certificate. The real estate education course completion certificate shall be in the form in Exhibit 4 MCAR S 1.41553-1.

Exhibit 4 MCAR S 1.41553-1

RE-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

COURSE COMPLETION CERTIFICATE

NOTICE TO SCHOOL: Furnish two copies to student.
NOTICE TO STUDENTS:
1. For Course I, attach one copy to license application.
2. For Course II and III, retain for your records unless course was completed prior to licensure. If completed prior to licensure, attach one copy to license application.
3. For continuing education courses, transfer information from this form to Form RE-9 and submit to Real Estate Licensing when total is 45 hours. Retain one copy for your records.

Student's Name (as it appears on your license)	Home Address
City, State, Zip	Company to which You are Licensed
School/Sponsoring Entity	
Completion Date of Course	☐ Course I ☐ Course II ☐ Course III
☐ Continuing Education — No. of Hrs. / Course No. / Course Title	
Coordinator's Signature	Date

M-00502-01

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[illegible]

4 MCAR S 1.41554 Application for Coordinator Approval. The real estate education application for coordinator approval shall be in the form in Exhibit 4 MCAR S 1.41554-1.

Exhibit 4 MCAR S 1.41554-1

RE-2

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

APPLICATION FOR COORDINATOR APPROVAL

Name of Applicant	Address	
City, State, Zip	Phone ( )	School/Sponsoring Entity for which Seeking Approval

4 MCAR §1.41534 Course Coordinator. B. Qualifications – The Commissioner shall approve as a coordinator a person having the following qualifications:

1. A minimum of the previous five years as an active real estate broker
   OR:
2. At least three of the prior five years of full time experience in the administration of an education program
   OR:
3. A degree in education plus two years real estate experience.

Educational Background Relating to Criteria for Approval		
School	Dates Attended	Degree (indicate major)

Employment History Relating to Criteria for Approval			
Name of Employer	Address	Date of Employment	Position

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If Yes, date issued: _____ Type of License: _____		

►If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendent in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

I certify that the information contained on this application is correct. I understand that if approved as coordinator, I will be responsible for compliance with Minnesota laws and rules relating to real estate education in connection with any courses conducted under my supervision. I further certify that I have read and understood the Minnesota laws and rules relating to real estate education.

Signature of Applicant	Date

CM-00303-01

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I certify that the information contained in this application is correct and that I will notify the Commissioner within ten days of any changes in the information contained herein.

Signature of Applicant	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19__, _____ appeared before me, a Notary Public, and being duly sworn, says that she/he is the applicant; that she/he read the foregoing application and accompanying exhibits, and that the contents are true to her/his knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

I recommend that approval as an instructor be granted for the aforementioned applicant. I understand that I am responsible for the supervision of this instructor pursuant to 4 MCAR § 1.41534C.

Signature of Coordinator	Date

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_____

4 MCAR S 1.41555 Application for Course Approval for Course I, II, and III. The real estate education application for course approval for courses I, II, and III shall be in the form in Exhibit 4 MCAR S 1.41555-1.

Exhibit 4 MCAR S 1.41555-1

RE-3

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

APPLICATION FOR COURSE APPROVAL
FOR COURSE I, II, AND III

Instructions: 1. Attach Service of Process Form (for out-of-state applicants only).
2. Attach Instructor Approval Form if instructor has not previously been approved.

"X" applicable course: ☐ Course I ☐ Course II ☐ Course III

Course Title		School/Sponsoring Entity	
Address	City, State, Zip		Phone (include area code) ( )
Course Dates: From	To	Time	Total Hours
Course Location			
Name of Text	Date of Edition	Author	

"X" if you certify that course material is in compliance with prescribed outlines: ☐ Yes ☐ No

If Course III is a combination of subjects, list below:

Subject	Number of Hours

Coordinator	Home Address
City, State, Zip	Phone (include area code) ( )

As coordinator of the proposed offering, I certify that the information contained in this application is correct to the best of my knowledge. I also certify that this course is not being offered by an individual, firm or business organization, the primary income of which is derived from the real estate brokerage business.

Signature of Coordinator	Date

State of _____)
) ss
County of _____)

On this _____ day of _____ 19__, _____ appeared before me, a Notary Public, and being duly sworn, says that she/she has read the foregoing application and accompanying exhibits, and that the contents thereof are true to her/his own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

FOR OFFICE USE ONLY		
Course No.	Course Title	Date Approved
Reason for Non-approval		
Signature		Title

CM-00504-01

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4 MCAR S 1.41556 Application for Instructor Approval for Courses I, II, III. The real estate education application for instructor approval for courses I, II, and III shall be in the form in Exhibit 4 MCAR S 1.41556-1.

Exhibit 4 MCAR S 1.41556-1

RE-4

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

APPLICATION FOR INSTRUCTOR APPROVAL
FOR COURSES I, II, III

Name of Applicant	Address	
City, State, Zip	Phone (include area code) ( )	School/Sponsoring Entity

4 MCAR §1.41535 Instructors 2. Applicants for Course I, II, and III shall be approved if they achieve a rating of 70 points or higher based upon the scale below.

Points	
20	2 year degree or certificate
40	4 year degree
50	Post graduate degree
60	2 year real estate degree or certificate
70	4 year real estate degree or certificate
10	Each 45 hours of approved continuing real estate education attended or taught.
30	First three year period in which engaged full time in real estate industry or profession related to area of teaching.
10	Each successive year in which engaged in full time in real estate or profession relating to area of teaching.

Educational Background For Which Applicant Seeks Points		
Name of School	Dates Attended	Degree

Educational Points: ____

Continuing Real Estate Education For Which Applicant Seeks Points	
Total No. of Hours Attended	Total No. of Hours Taught

Continuing Education Points: ____

Professional Experience For Which Applicant Seeks Points		
Place of Employment	Dates	Position Held

Experience Points: ____

TOTAL POINTS: ____

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If yes, date issued: ____ Type of License: ____		

▶If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendant in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

OVER

CM-00505-01

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

_____

I certify that the information contained in this application is correct and that I will notify the Commissioner within ten days of any changes in the information contained herein.

Signature of Applicant	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19__, _____ appeared before me, a Notary Public, and being duly sworn, says that she/he is the applicant; that she/he read the foregoing application and accompanying exhibits, and that the contents are true to her/his knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

I recommend that approval as an instructor be granted for the aforementioned applicant. I understand that I am responsible for the supervision of this instructor pursuant to 4 MCAR § 1.41534C.

Signature of Coordinator	Date

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

_____

4 MCAR S 1.41557 Course II and III Record of Completion. The real estate education courses II and III record of completion shall be in the form in Exhibit 4 MCAR S 1.41557-1.

Exhibit 4 MCAR S 1.41557-1

RE-5

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

COURSE II and III RECORD OF COMPLETION

This form is to be submitted by schools/sponsoring entities within 14 days of course completion.

"X" one: ☐ Course II ☐ Course III

Completion Date

Student Name	Home Address	Company Name

Coordinator's Signature	Date	Name of School/Sponsoring Entity

School/Sponsoring Entity Address	City, State, Zip

CM-00506-01

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

4 MCAR S 1.41558 Application for Course Approval for Continuing Education. The real estate education application for course approval for continuing education shall be in the form in Exhibit 4 MCAR S 1.41558-1.

Exhibit 4 MCAR S 1.41558-1

RE-4

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

APPLICATION FOR COURSE APPROVAL
FOR CONTINUING EDUCATION

Instructions:
1. Attach a Service of Process Form (for out-of-state applicants only).
2. Attach syllabus (pursuant to 4 MCAR § 1.41530 (E) and include the time allotted to each segment in the outline.
3. Attach instructor approval form.

Course Title		School/Sponsoring Entity	
Address	City, State, Zip		Phone (include area code) ( )
Course Dates: From	To	Time	Total Hours
Course Location			
Name of Text (if applicable)	Date of Edition	Author	

Coordinator	Home Address
City, State, Zip	Phone (include area code) ( )

As coordinator of the proposed offering, I certify that the information contained in this application is correct to the best of my knowledge. I also certify that this course is not being offered by an individual, firm or business organization, the primary income of which is derived from the real estate brokerage business.

Signature of Coordinator	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19__, _____ appeared before me, a Notary Public, and being duly sworn, says that she/he has read the foregoing application and accompanying exhibits, and that the contents thereof are true to her/his own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

FOR OFFICE USE ONLY

Course No.	Course Title	Date Approved
Reason for Non-Approval		
Signature	Title	

CM-00507-01

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

_____

4 MCAR S 1.41559 Application for Instructor Approval for Continuing Education. The real estate education application for instructor approval for continuing education shall be in the form in Exhibit 4 MCAR S 1.41559-1.

Exhibit 4 MCAR S 1.41559-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-7

APPLICATION FOR INSTRUCTOR APPROVAL
FOR CONTINUING EDUCATION

Name of Applicant	Address
City, State, Zip	Telephone (include area code) ( )
Course Title	School/Sponsoring Entity

4 MCAR §1.41535 Instructors B. (4) Continuing Education instructors must have a degree in any area plus two years practical experience in the subject being taught; OR five years practical experience in the subject area being taught; OR a college degree in the subject area being taught; OR have held a broker's license for 3 years, or have 3 yrs. practical experience in the subject area being taught, and have completed at least 60 hours of approved continuing education in the subject area being taught.

College/University			
Name of School	Address	Year of Graduation	Major

Experience Related to Subject Area			
Dates	Place of Employment	Address	Position Held

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If yes, date issued: _____ State _____ Type of License: _____		

▶If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendent in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

I certify that the information contained in this application is correct and that I will notify the Commissioner within ten days of any changes in the information contained herein.

Signature of Applicant	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19___, _____ appeared before me, a Notary Public, and being duly sworn says that she/he is the applicant; that he/she has read the foregoing application and accompanying exhibits, and that the contents are true to his/her own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

CM-00568-01

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

_____

4 MCAR S 1.41560 Notice of Subsequent Offerings of Continuing Education Courses. The real estate education notice of subsequent offerings of continuing education courses shall be in the form in Exhibit 4 MCAR S 1.41560-1.

Exhibit 4 MCAR S 1.41560-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-8

NOTICE OF SUBSEQUENT OFFERINGS
OF CONTINUING EDUCATION COURSES

This Form is to be used to notify the Commissioner no later than 30 days in advance of the proposed offering of previously approved courses.

Course No.	Course Title		School/Sponsoring Entity	
School Address		City, State, Zip		Phone (area code) ( )
Coordinator's Name		Home Address		City, State, Zip
Course Dates:	From	To	Time	Total Hours
	Course Location			

Submitted by (print or type)	Signature
Title	Date

CM-00509-01

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

_____

4 MCAR S 1.41561 Continuing Education Course Verification. The real estate education continuing education course verification shall be in the form in Exhibit 4 MCAR S 1.41561-1.

Exhibit 4 MCAR S 1.41561-1

RE-9

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

CONTINUING EDUCATION
COURSE VERIFICATION

The information which you furnish on this form will be used to determine whether you have complied with the continuing education requirement of Minnesota Statutes, Chapter 82. You are not legally required to provide this information. However, if you fail to do so, the Department of Commerce will be unable to renew your real estate license. Information contained on this application, other than name and address, will be private pursuant to Minnesota Statute, Chapter 15.

Instructions

1. This form is an on-going record of your continuing education credits for the three year reporting period. Attach additional forms if necessary.
2. Each time you complete a continuing education course, enter the course number, date completed, course title and the number of hours of credit received.
3. When the total number of hours received reaches 45, sign and date the bottom of the form and promptly submit to:

   Real Estate Licensing
   500 Metro Square Building
   St. Paul, MN 55101

   Do not wait until the renewal of your license. Retain a copy for your records.
4. Be sure that all information requested is provided. Incomplete forms will be returned to the licensee.
5. If credit is earned as instructor, place "instructor" next to the course title. Instructors may earn three credit hours for each one hour taught, only the first time a course is taught.

Name (as it appears on your license)	License No.	Name of Company to which You Are Licensed
Home Address		City, State, Zip

Course No.	Date Completed	Course Title	Credit Hours
		TOTAL	

CERTIFICATION

I certify that I have taken and completed the courses listed above and will furnish to the Securities and Real Estate Division, upon request, evidence of having taken any or all of the courses listed.

Signature	Date

CM-00510-01

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

4 MCAR S 1.41562 Real Estate Salesperson Automatic Transfer. The real estate salesperson automatic transfer shall be in the form in Exhibit 4 MCAR S 1.41562-1.

Exhibit 4 MCAR S 1.41562-1

RE-10

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, MN 55101
(612) 296-9458

REAL ESTATE SALESPERSON
AUTOMATIC TRANSFER

The data which you furnish on this form will be used to implement the automatic transfer of your real estate salesperson's license. You are not legally required to provide this data. However, if you fail to do so you will be unable to utilize the automatic license transfer provision of Minnesota Statute §82.20, Subd. 9(b). Disclosure of your social security number is voluntary, authorized by Minnesota Statute, Chapter 270A. Your social security number may be used to recapture payments made out of the Recovery Fund. Information contained in this application, other than your name and address, will be private pursuant to Minnesota Statutes, Chapter 15.

This form may be used to effect an automatic transfer of a salesperson's license from one broker to another broker provided:

a) the applicant's educational requirements are not past due;
b) this form is completed in its entirety;
c) the applicant commences his/her association with the broker to whom he is transferring within five days after terminating his association with the broker from whom he/she is transferring;
d) the appropriate transfer fee is attached (if the applicant transfers between May 1 and June 30, inclusive, of any year he/she must also pay the renewal fee in addition to the transfer fee);
e) this form and the appropriate fees are received either by certified mail or personal delivery to the Securities and Real Estate Division of the Department of Commerce within 72 hours of execution by the broker to whom the applicant is transferring; (in the event of a delay in mail delivery, an application postmarked within 24 hours of the date of the signature of the new broker shall be deemed timely received);
f) the signature of the previous broker pre-dates the signature of the broker to whom the salesperson is transferring;
g) the applicant is in compliance with 4 MCAR Section 1.41525 concerning notice to the commissioner of any change of information contained in his/her license application or of any civil judgment, disciplinary action or criminal offense.

"X" one: ☐ Transfer $10.00 ☐ Transfer and Renewal* $25.00

☐ Transfer with Subdivided Land $20.00 ☐ Transfer and Renewal with Subdivided Land* $35.00

*Renewal fees are subject to increase due to special assessments for the Real Estate Education, Research and Recovery Fund. If transferring between May 1 and June 30, inclusive, of any year contact the commissioner's office to determine whether a special assessment has been made.

Applicant's Name as it Appears on License	Social Security No.	License No.
Home Address	City, State, Zip	

Broker (company to whom presently licensed)		License No.
Signature of Broker	Time	Date

Broker (company to whom you will be licensed)		License No.
I understand that I, as broker, am responsible for the real estate activities of this salesperson as of the time and date below:		
Signature of Broker	Time	Date

I hereby certify that I currently hold a Minnesota Real Estate Salesperson's License and that I am eligible for an immediate transfer; that I am not past due for any educational requirements; and that all information contained herein is true and accurate. Further, I understand that I am unlicensed for any period of time between the signatures of the terminating broker and the broker to whom I am transferring. I understand and acknowledge that if this application is not received by the Securities and Real Estate Division within 72 hours of execution of the broker to whom I am transferring, or that if this application is not completed in its entirety, I am not eligible for an immediate transfer. I further certify that I have not failed to notify the Commissioner within 10 days of any change of information contained in my license application or of any civil judgment, disciplinary action or criminal offense, which notice is required pursuant to 4 MCAR 1.41525. (If this application is submitted to the Commissioner by certified mail, the return receipt shall constitute evidence of delivery.)

Signature of Applicant	Date

CM-00511-03

APPLICANT MUST RETAIN A PHOTOCOPY OF THIS DOCUMENT AS EXECUTED AND SHALL ALSO PROVIDE THE BROKER FROM WHOM HE IS TRANSFERRING WITH A PHOTOCOPY OF THIS DOCUMENT AS EXECUTED.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Repealer. 4 MCAR S 1.41504, 4 MCAR S 1.41508, 4 MCAR S 1.41509, 4 MCAR S 1.41511, the forms following 4 MCAR S 1.41511, and 4 MCAR S 1.41512 are repealed.

Effective date. Rules 4 MCAR SS 1.41529-1.41548 and 4 MCAR SS 1.41553-1.41561 are effective January 1, 1983.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
SECURITIES & REAL ESTATE DIVISION

In the Matter of the Proposed Adoption
of the Rules of the State Department of
Commerce, Securities and Real Estate Div.
Governing Real Estate Brokers & Salespersons

ORDER ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on July 28, 1982 and was sent by the United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on July 25, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that the rules identified above are adopted this 30 day of August, 1982 pursuant to authority vested in me by Minnesota Statutes section 82.28.

STATE OF MINNESOTA
Dept. of Commerce
Securities & Real Estate Division

Mary Alice Brophy

Mary Alice Brophy
Commissioner of Securities & Real Estate

Department of Commerce Securities Division

Notice of Intent to Solicit Outside Opinion Concerning Amendments to Rules Relating to Real Estate

Notice is hereby given that the Securities Division is soliciting opinions and comments relating to changes in the rules relating to real estate (4 MCAR §§ 1.41500-1.41513).

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing and must be received by August 1, 1980. Written statements of information and comments may be addressed to:

Daniel W. Hardy
Assistant to the Commissioner
Securities Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-5689 and in person at the above address. Any written material received by the above date will become part of the record of any rules hearing which might be held.

April 10, 1980

Daniel W. Hardy
Assistant to the Commissioner

Notice of Intent to Solicit Outside Opinion Concerning Amendments to Rules Relating to Franchises

Notice is hereby given that the Securities Division is soliciting opinions and comments relating to changes in the rules relating to franchises (SDiv 1701-SDiv 1722(a)).

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing and must be received by June 1, 1981. Written statements of information and comments may be addressed to:

Mr. Clifford G. Maine
Senior Securities Examiner
Securities Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-6328 and in person at the above address. Any written material received by the above date will become part of the record of any rules hearing which might be held.

April 10, 1980

Daniel W. Hardy
Assistant to the Commissioner

Minnesota State Retirement System

Special Meeting, Board of Directors

A special meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, May 2, 1980 at 10:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Department of Revenue Property Equalization Division

Notice of Intent to Solicit Outside Opinion Regarding the Method of Apportioning the Value of Railroad Operating Property to Counties and Taxing Districts

The Department of Revenue, pursuant to Minn. Stat. § 270.86 (1979 Supp.), is seeking information and opinions from sources outside the department in preparation to propose rules governing the apportionment of the value of railroad operating property to the affected taxing districts in Minnesota. The Department of Revenue is charged under law to make a fair and equitable apportionment of the value of railroad property to taxing districts considering such factors as the physical situs of station houses, depots, docks, wharves and other buildings and structures; the length and type of railroad track within a county or taxing district; and other pertinent facts.

Any interested persons may submit data or comments on this subject by calling or writing to:

Gerald D. Garski, Manager
State Assessed Property
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-5134

Any materials received by the department shall become a part of the hearing record at the time that rules are promulgated on the above subject. Any comments, views or data must be received by August 1 to be considered before the rules are drafted.

April 21, 1980

Clyde E. Allen, Jr.
Commissioner of Revenue

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
COMMISSIONER OF SECURITIES AND REAL ESTATE

In the Matter of the Proposed Adoption, Amendment and Repeal of Rules and Forms of the State Department of Commerce, Securities and Real Estate Division Governing Real Estate Brokers and Salespersons	ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 11th day of June , 1982 that Notice of Intent to Adopt, Amend and Repeal Rules and Forms Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Commerce, Securities and Real Estate Division for that purpose and be published in the State Register.

DEPARTMENT OF COMMERCE, SECURITIES AND REAL ESTATE DIVISION

Mary Alice Brophy

MARY ALICE BROPHY
COMMISSIONER OF SECURITIES AND REAL ESTATE
STATE OF MINNESOTA

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
COMMISSIONER OF SECURITIES AND REAL ESTATE

In the Matter of the Proposed Adoption, Amendment and Repeal of Rules and Forms of the State Securities and Real Estate Division Governing Real Estate Brokers and Salespersons

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the State Securities and Real Estate Division proposes to adopt, amend and repeal the above-entitled rules and forms without a public hearing. The Commissioner has determined that the proposed adoption, amendment and repeal of these rules and forms will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes Section 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a hearing is required, the agency will proceed according to the provisions of Minnesota Statutes Section 15.0412, subdivisions 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Mr. Daniel W. Hardy
Assistant to the Commissioner
Securities and Real Estate Division
Department of Commerce
500 Metro Square Building
Saint Paul, Minnesota 55101
Telephone: (612) 296-5689

Authority for the adoption of these rules is contained in Minnesota Statutes section 82.28 (1980). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available for inspection by the public, during regular business hours, at the above address.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the State of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Hardy.

A copy of the proposed rules is attached to this Notice.

DEPARTMENT OF COMMERCE, SECURITIES AND
REAL ESTATE DIVISION

June 11, 1982

Mary Alice Brophy

MARY ALICE BROPHY
COMMISSIONER OF SECURITIES AND REAL ESTATE
STATE OF MINNESOTA

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
COMMISSIONER OF SECURITIES AND REAL ESTATE

In the Matter of the Proposed Adoption, Amendment and Repeal of Rules and Forms of the State Department of Commerce, Securities and Real Estate Division Governing Real Estate Brokers and Salespersons

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Daniel W. Hardy, Assistant to the Commissioner of Securities and Real Estate, being first duly sworn, deposes and says:

That on the 25th day of June, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Department of Commerce, Securities and Real Estate Division for the purpose of receiving notice of the proposed adoption of rules by this agency.

Daniel W. Hardy
Asst. to Commr

MARILYN F. STAPLES
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires June 18, 19

Subscribed and sworn to before me this
3rd day of August, 1982

Marilyn F. Staples

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
COMMISSIONER OF SECURITIES AND REAL ESTATE

CERTIFICATE

In the Matter of the Proposed Adoption, Amendment and Repeal of Rules and Forms of the State Department of Commerce, Securities and Real Estate Division Governing Real Estate Brokers and Salespersons

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, Subd. 4, that their names be placed on file with and maintained by the State Department of Commerce, Securities and Real Estate Division for the purpose of receiving notice of the proposed adoption of rules by this agency is accurate and complete as of 12:00 noon, this 25th day of June, 1982.

Margaret Anne
Admin. Secretary

Department of Commerce
Commissioner of Securities and Real Estate

Proposed Adoption, Amendment and Repeal of Rules and Forms of the State Securities and Real Estate Division Governing Real Estate Brokers and Salespersons

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Securities and Real Estate Division proposes to adopt, amend and repeal the above-entitled rules and forms without a public hearing. The commissioner has determined that the proposed adoption, amendment and repeal of these rules and forms will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, subd. 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a hearing is required, the agency will proceed according to the provisions of Minnesota Statutes § 15.0412, subds. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Mr. Daniel W. Hardy
Assistant to the Commissioner
Securities and Real Estate Division
Department of Commerce
500 Metro Square Building
Saint Paul, Minnesota 55101
Telephone: (612) 296-5689

Authority for the adoption of these rules is contained in Minnesota Statutes § 82.28 (1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available for inspection by the public, during regular business hours, at the above address.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Hardy.

The proposed rules follow this notice.

June 11, 1982

Mary Alice Brophy
Commissioner of Securities and Real Estate

Rules as Proposed

4 MCAR § 1.41500 Definitions.

A. Applicability. For the purposes of ~~these rules~~ 4 MCAR §§ 1.41501-1.41552, the terms defined in this ~~section shall~~ rule have the meanings given ~~to~~ them.

~~1. "Chapter" shall mean Minnesota Laws 1973, Ch. 410 (codified as Minn. Stat. 1973, ch. 82).~~

B. Commissioner. "Commissioner" means the Commissioner of Securities and Real Estate.

~~2.~~ C. Licensee. "Licensee" ~~shall mean any~~ means a person duly licensed under ~~this chapter~~ Minn. Stat. ch. 82.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

D. Loan broker. "Loan broker" means a licensed real estate broker or salesperson who for another and for a commission, fee, or other valuable consideration or with the intention or expectation of receiving the same (1) directly or indirectly negotiates or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance on real estate or (2) represents himself or herself or otherwise holds himself or herself out as a licensed real estate broker or salesperson (a) in connection with any transaction in which he or she directly or indirectly negotiates or offers or attempts to negotiate a loan or (b) in connection with the conduct of his or her ordinary business activities as a loan broker.

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

E. Primary broker. "Primary broker" means the broker on whose behalf salespersons are licensed to act pursuant to Minn. Stat. § 82.20, subd. 6. In the case of a corporation licensed as a broker, "primary broker" means each officer of the corporation who is individually licensed to act as a broker for the corporation. In the case of a partnership, "primary broker" means each partner licensed to act as a broker for the partnership.

F. Overpayment. "Overpayment" means any payment of moneys in excess of a statutory fee or for a license for which a person does not qualify.

~~3.~~ G. Override clause. "Override clause" ~~shall mean~~ means a provision in a listing agreement or similar instrument allowing the broker to receive a commission when the property is sold~~,~~ after the listing agreement has expired~~,~~ to persons with whom a broker or salesperson had negotiated or exhibited the property prior to the expiration of the listing agreement.

H. Person. "Person" means a natural person, firm, institution, partnership, corporation, or association.

I. Property. "Property" means real property or other property within the scope of Minn. Stat. ch. 82, unless the context clearly indicates otherwise.

~~4.~~ J. Protective list. "Protective list" ~~shall refer to~~ means the written list of names and addresses of prospective purchasers with whom a ~~broker or salesperson had~~ licensee has negotiated ~~or~~ the sale or rental of the property or to whom a licensee has exhibited the property prior to the expiration of the listing agreement. For the purposes of this paragraph "property" means the property which is the subject of the listing agreement in question.

K. Rental service. "Rental service" means a person who gathers and catalogs information concerning apartments or other units of real estate available for rent, and who, for a fee, provides information intended to meet the individual needs of specifically identified lessors or prospective lessees. This term shall not apply to newspapers or other periodicals with a general circulation or individual listing contracts between an owner or lessor of property and a licensee.

L. School. "School" means a person offering or providing real estate education.

4 MCAR § 1.41501 Payment of fees.

A. Cash not accepted. All fees shall be paid by check, draft, or other negotiable or non-negotiable instrument or order of withdrawal which is drawn against funds held by a financial institution. Cash will not be accepted.

B. Overpayment of fees. ~~"Overpayment" shall mean any payment of monies in excess of a statutory fee or for an examination or license for which a person does not qualify.~~ An overpayment of ~~any~~ a fee paid pursuant to ~~this chapter~~ Minn. Stat. ch. 82 shall be refunded within a reasonable time after a letter requesting ~~said~~ the refund is received by the commissioner and signed by the person making the overpayment.

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

4 MCAR § 1.41502

~~A.~~ Passing grade. ~~While the examinations are different~~ A passing grade ~~of~~ for a salesperson's and broker's examination shall be a score of 75 percent or higher ~~shall be a passing grade for~~ on the uniform portion and a score of 75 percent or higher on the state portion of the ~~real estate broker and real estate salesperson's~~ examination.

The commissioner shall not accept the scores of a person who has cheated on an examination. Cheating on a real estate examination shall be grounds for denying an application for a broker's or salesperson's license.

4 MCAR § 1.41503 License.

A. Application for broker's license. After successful completion of the real estate broker's examination, ~~a person~~ an

individual shall have one year from the date of ~~such~~ the examination to apply for a broker's license, unless ~~such~~ the individual is a salesperson who remains ~~continually~~ continuously active in the real estate field as a licensee. Failure to apply for the broker's license or to remain continuously active in the real estate field will ~~result in~~ necessitate a ~~re-examination~~ reexamination.

An individual who holds a broker's license in his or her own name or for or on behalf of a corporation or partnership shall be issued an additional broker's license only upon demonstrating: (1) that the additional license is necessary in order to serve a legitimate business purpose; (2) that he or she will be capable of supervising all salespersons over whom he or she will have supervisory responsibility or, in the alternative, that he or she will have no supervisory responsibilities under the additional license; and (3) that he or she has a substantial ownership interest in each corporation or partnership for or on whose behalf he or she holds or will hold a broker's license.

For the purposes of this rule a legitimate business purpose includes engaging in a different and specialized area of real estate or maintaining an existing business name.

B. Cancellation of a salesperson's or broker's license. A salesperson's or broker's license which has been cancelled for failure of a ~~salesperson~~ licensee to complete ~~required~~ ~~instruction~~ post-licensing education requirements must be returned to the commissioner by the ~~salesperson's~~ licensee's broker within ten days of receipt of notice of cancellation. ~~Such~~ The license ~~may~~ shall be reinstated without ~~re-examination~~ reexamination by completing the required instruction ~~and~~, filing an application, and paying the fee for a salesperson's or brokers' license within one year of the cancellation date.

C. Waivers. The commissioner may waive the real estate licensing experience requirement for the broker's examination.

1. ~~Qualifications.~~ An applicant for a waiver shall provide evidence of ~~either~~:

a. Successful completion of a minimum of ~~ninety~~ ~~(90)~~ quarter credits or ~~two hundred seventy~~ ~~(270)~~ classroom hours of real estate-related studies; ~~or~~

b. A minimum of five ~~(5)~~ consecutive years of practical experience in real estate-related areas; or

c. Successful completion of ~~thirty~~ ~~(30)~~ credits or ~~ninety~~ ~~(90)~~ classroom hours and three ~~(3)~~ consecutive years of practical experience in real estate-related areas.

2. ~~Requests.~~ A request for a waiver shall be submitted to the commissioner in writing and be accompanied by ~~such~~ documents ~~as~~ necessary to evidence qualification as set forth in 1.

3. The waiver will lapse if the applicant fails to successfully complete the broker's examination within one year from the date of the granting of the waiver.

4 MCAR § 1.41505

~~A.~~ Trust funds.

~~1.~~ A. Listing broker. Unless otherwise agreed upon in writing by the parties to a transaction, the broker with whom trust funds are to be deposited in satisfaction of Minn. Stat. § ~~8~~ 82.24, subd. 1 ~~of this chapter~~ shall be the listing broker.

~~2. Trust funds received by a broker or his salesperson shall include but not be limited to funds received in connection with the following:~~

~~a. offers to purchase~~

~~b. options~~

~~c. land contracts~~

~~d. rent contracts~~

~~e. mortgages~~

~~f. mortgage payments~~

~~g. real estate taxes and insurance payments~~

~~h. any other receipts pertaining to the sale, exchange, purchase, or rental of real estate.~~

~~This obligation shall extend to business opportunities and mortgage financing.~~

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~~3.~~ B. Maintenance. ~~Said~~ Trust funds shall be maintained in ~~the~~ a trust account until disbursement is made in accordance with the terms of the applicable agreements ~~provided~~ 4 ~~MCAR~~ § ~~1.41505~~ ~~A.2.~~ ~~above~~ and proper accounting is made to the parties entitled ~~thereto~~ to an accounting.

Disbursement shall be made within a reasonable time following the consummation or termination of a transaction if the applicable agreements are silent as to the time of disbursement.

~~4.~~ C. Consent to place in special account. Trust funds may be placed by the broker in a special account, which may be an interest-bearing account or certificate of deposit~~,~~ ~~provided~~ if the buyer and the seller consent in writing to ~~such~~ the special account ~~or deposit~~ and to the disposition of ~~such~~ the trust funds, including any interest thereon.

D. Licensee as principal. Funds which would constitute trust funds if received by a licensee acting as an agent must, if received by a licensee acting as principal, be placed in a trust account unless a written agreement signed by all parties to the transaction specifies a different disposition of the funds. The written agreement shall state that the funds would otherwise be placed in a real estate trust account.

Rules as Proposed (all new material)

4 MCAR § 1.41514 Loan brokers; standards of conduct. Loan brokers shall comply with the requirements of A.-F.

A. Contract provisions. A loan broker shall enter into a written contract with each customer and shall provide a copy of the written contract to each customer at or before the time of receipt of any fee or valuable consideration paid for loan brokerage services. The written contract shall:

1. Identify the escrow account into which the fees or consideration will be deposited;

2. Set forth the circumstances under which the loan broker will be entitled to disbursement from the escrow account;

3. Set forth the circumstances under which the customer will be entitled to a refund of all or part of the fee;

4. Specifically describe the services to be provided by the loan broker and the dates by which the services will be performed;

5. State the maximum rate of interest to be charged on any loan obtained;

6. Contain a statement which notifies the customer of his or her rights to cancel the contract pursuant to B.;

7. Disclose, with respect to the 12-month period ending ten business days prior to the date of the contract in question, the percentage of the loan broker's customers for whom loans have actually been funded as a result of the loan broker's services. This disclosure need not be made for any period prior to the effective date of this rule; and

8. Disclose the cancellation rights and procedures set forth in B.

B. Cancellation. Any customer of a loan broker who puys a fee prior to the time a loan is actually funded shall have an unconditional right to rescind the contract for loan brokerage services at any time until midnight of the third business day after the day on which the contract is signed. Cancellation is evidenced by the customer giving written notice of cancellation to the loan broker 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 loan broker with 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 customer not to be bound by the contract. No act of a customer of a loan broker shall be effective to waive the right to rescind as provided in this paragraph.

C. Escrow account. The loan broker shall deposit in an escrow account within 48 hours all fees received prior to the time a loan is actually funded. The escrow account shall be in a bank located within the State of Minnesota and shall be controlled by an unaffiliated accountant, lawyer, or bank officer or employee.

D. Records. The loan broker shall maintain a separate record of all fees received for services performed or to be performed as a loan broker. Each record shall set forth the date funds are received; the person from whom the funds are received; the amount received; the date of deposit in the escrow account; the account number; the date the funds are disbursed and the check number of the disbursement; and a description of each disbursement and the justification for the disbursement.

E. Monthly statement. The loan broker shall provide to each customer at least monthly a detailed written accounting of all disbursements of the customer's funds from the trust account.

F. Disclosure of lenders. The loan broker shall provide to each customer at the expiration of the contract a list of the lenders or loan sources to whom loan applications were submitted on behalf of the customer.

4 MCAR § 1.41515 Standards of conduct. The methods, acts, or practices set forth in 4 MCAR §§ 1.41516-1.41526 are standards of conduct governing the activities of real estate brokers and salespersons under Minn. Stat. ch. 82. Failure to comply with these standards shall constitute grounds for license denial, suspension, or revocation or for censure of the licensee.

4 MCAR § 1.41516 Responsibilities of brokers.

A. Supervision of personnel. Brokers shall adequately supervise the activities of their salespersons and employees. Supervision includes the on-going monitoring of listing agreements, purchase agreements, other real estate-related documents which are prepared or drafted by the broker's salespersons or employees or which are otherwise received by the broker's office, and the review of all trust account books and records. If an individual broker maintains more than one place of business, each place of business shall be under the broker's direction and supervision. If a partnership or corporate broker maintains more than one place of business, each place of business shall be under the direction and supervision of an individual broker licensed to act on behalf of the partnership or corporation.

The primary broker shall maintain records specifying the name of each broker responsible for the direction and supervision of each place of business. If an individual broker, who may be the primary broker, is responsible for supervising more than one place of business, the primary broker shall, upon written request of the commissioner, file a written statement specifying the procedures which have been established to assure that all salespersons and employees are adequately supervised. Designation of anothr broker to supervise a place of business does not relieve the primary broker of the ultimate responsibility for the actions of licensees.

B. Preparation and safekeeping of documents. Brokers shall be responsible for the preparation, custody, safety, and accuracy of all real estate contracts, documents and records, even though another person may be assigned these duties by the broker.

C. Documentation and resolution of complaints. Brokers shall investigate and attempt to resolve complaints made regarding the practices of any individual licensed to them and shall maintain, with respect to each individual licensed to them, a complaint file containing all material relating to any complaints received in writing for a period of three years.

D. Disclosure of listed property information. No broker shall allow any unlicensed person to disclose any information regarding a listed property except to state the address of the property and whether it is available for sale or lease.

4 MCAR § 1.41517 Temporary broker's permit. In the event of death or incapacity of a broker, the commissioner may issue a 45-day temporary permit to an individual who has had a minimum of two years actual experience as a licensed real estate salesperson and who is otherwise reasonably qualified to act as a broker. Upon application prior to its expiration, the 45-day temporary permit shall be renewed once by the commissioner if the applicant demonstrates that he or she has made a good faith effort to obtain a broker's license within the preceding 45 days and an extension of time will not harm the public interest.

Only those salespersons licensed to the deceased or incapacitated broker at the time of death or incapacity may conduct business for or on behalf of the person to whom the temporary broker's license was issued.

4 MCAR § 1.41518 Licensee as agent of broker; disclosure. A salesperson shall only conduct business under the licensed name of and on behalf of the broker to whom he or she is licensed. An individual broker shall only conduct business under his or her licensed name. A broker licensed to a corporation or partnership shall only conduct business under the licensed corporate or partnership name. A licensee shall affirmatively disclose prior to the negotiation or consummation of any transaction the licensed name of the broker under whom he or she is authorized to conduct business in accordance with this rule.

4 MCAR § 1.41519 Listing agreements.

A. Requirement. Licensees shall obtain a signed listing agreement, or other written authorization, from the owner of real property or from another person authorized to offer the property for sale or lease prior to advertising to the general public that the real property is available for sale or lease.

For the purposes of this rule "advertising" shall include placing a sign on the owner's property which indicates that the property is being offered for sale or lease.

B. Contents. All listing agreements shall be in writing and shall include:

1. A definite expiration date;
2. A description of the real property involved;
3. The list price and any terms required by the seller;
4. The amount of any compensation or commission or the basis for computing the commission;

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5. A clear statement explaining the events or conditions which will entitle a broker to a commission;

6. Information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the seller with a protective list within 72 hours after the expiration of the listing agreement; and

7. The following notice in not less than ten point boldface type immediately preceding any provision of the listing agreement relating to compensation of the licensee:

"NOTICE: THE AMOUNT OR RATE OF REAL ESTATE COMMISSIONS OR FEES IS NOT FIXED BY LAW AND MAY NOT LEGALLY BE FIXED BY MEANS OF AN AGREEMENT BETWEEN OR AMONG COMPETING REAL ESTATE FIRMS AND COMPANIES."

C. Prohibited provisions. Licensees shall not include in a listing agreement a holdover clause, automatic extension, or any similar provision, or an override clause the length of which is more than six months after the expiration of the listing agreement.

D. Override clauses. Licensees shall not seek to enforce an override clause unless a protective list has been furnished to the seller within 72 hours after the expiration of the listing agreement.

E. Protective lists. A broker or salesperson has the burden of demonstrating that each person on the protective list has, during the period of the listing agreement, either made an affirmative showing of interest in the property by responding to an advertisement or by contacting the broker or salesperson involved or has been physically shown the property by the broker or salesperson. For the purpose of this rule the mere mailing or other distribution by a licensee of literature setting forth information about the property in question does not, of itself, constitute an affirmative showing of interest in the property on the part of a subsequent purchaser.

The protective list shall contain the following notice in boldface type:

"IF YOU RELIST WITH ANOTHER BROKER WITHIN THE OVERRIDE PERIOD AND THEN SELL YOUR PROPERTY TO ANYONE WHOSE NAME APPEARS ON THIS LIST, YOU COULD BE LIABLE FOR FULL COMMISSIONS TO BOTH BROKERS. IF THIS NOTICE IS NOT FULLY UNDERSTOOD, SEEK COMPETENT ADVICE."

The protective list need not contain this notice if the written listing agreement specifically states that after its expiration the seller will not be obligated to pay the licensee a fee or commission if the seller has executed another valid listing agreement pursuant to which the seller is obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of the real property in question.

4 MCAR § 1.41520 Guaranteed sale programs. If a broker advertises or offers a guaranteed sale program, or other program whereby the broker undertakes to purchase real property in the event he or she is unable to effectuate a sale to a third party within a specified period of time, a written disclosure which sets forth clearly and completely the terms and conditions under which the broker agrees to purchase the property and the disposition of any profit at the time of resale by the broker must be provided to the seller prior to the execution of a listing agreement.

4 MCAR § 1.41521 Disclosure requirements.

A. Advertising. Each licensee shall identify himself or herself as either a broker or an agent in any advertising for the purchase, sale, lease, exchange, mortgaging, transfer, or other disposition of real property, whether the advertising pertains to his or her own property or the property of others.

B. Financial interests of licensee. Prior to the negotiation or consummation of any transaction, a licensee shall affirmatively disclose to the owner or real property that the licensee is a real estate broker or agent, and in what capacity the licensee is acting, if the licensee directly, or indirectly through a third party, purchases for himself or herself or acquires, or intends to acquire, any interest in, or any option to purchase, the owner's property.

C. Material facts. Licensees shall disclose to any prospective purchaser all material facts pertaining to the property, of which the licensee is aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensee is aware.

D. Nonperformance of any party. If a licensee is aware that any party to a real estate transaction is clearly unwilling or unable to perform in accordance with the terms of a purchase agreement or other similar agreement, the licensee shall immediately disclose the fact of that party's unwillingness or inability to perform to the other party or parties to the transaction if the licensee is aware that the other party or parties have acted or are likely to act to their detriment in reasonable reliance upon the anticipated consummation of the transaction. Whenever reasonably possible, the licensee shall inform the party who is unable or unwilling to perform of the licensee's intention to disclose this fact to the other party or parties to the transaction prior to making the disclosure.

4 MCAR § 1.41522 Prohibition on guaranteeing future profits. Licensees shall not, with respect to the sale or lease of real property, guarantee or project or permit or encourage another person to guarantee or project future profits or earnings which may result from the purchase or lease of the real property in question unless the guarantee or projection and the assumptions upon which it is based are fully disclosed and contained in the contract, purchase agreement, or other instrument of sale or lease.

4 MCAR § 1.41523 Negotiations.

A. Written offers. All offers to purchase or lease shall be promptly submitted in writing to the seller.

B. Nondisclosure of terms of offer. A licensee shall not disclose the terms of an offer to another prospective buyer or the buyer's agent prior to the presentation of the offer to the seller.

C. Closing costs. Licensees shall disclose to a buyer or a seller at or before the time an offer is written or presented that the buyer or seller may be required to pay certain closing costs, and the approximate amount of these costs.

D. Required documents. Licensees shall furnish to the parties to the transaction at the time the documents are signed or become available a true and accurate copy of listing agreements, earnest money receipts, purchase agreements, contracts for deed, option agreements, closing statements, truth-in-housing forms, energy audits, and any other record, instrument, or document which is material to the transaction and which is in the licensee's possession.

E. Closing statement. The listing broker or his or her designee shall deliver to the seller at the time of closing a complete and detailed closing statement setting forth all of the receipts and disbursements handled by the broker for the seller. The listing broker shall also deliver to the buyer at the time of closing a complete and detailed statement setting forth the disposition of all moneys received in the transaction from the buyer.

F. Exclusive agency agreements. A licensee shall not negotiate the sale, exchange, lease, or listing of any real property directly with the owner or lessor knowing that the owner or lessor has executed a written contract granting exclusive agency in connection with the property to another real estate broker. The licensee shall inquire of the owner or lessor whether such a contract exists.

G. Prohibition against interference with contractual relationships of others. Licensees shall not induce any party to a contract of sale or lease, option, or exclusive listing agreement, to breach the contract, option, or agreement.

H. Prohibition against discouraging use of attorney. Licensees shall not discourage prospective parties to a real estate transaction from seeking the services of an attorney.

4 MCAR § 1.41524 Compensation.

A. Licensee to receive only from broker. A licensee shall not accept a commission or other valuable consideration for the performance of any acts requiring a real estate license from any person except the real estate broker to whom he is licensed or to whom he was licensed at the time of the transaction.

B. Undisclosed compensation. A licensee shall not accept, give, or charge any undisclosed commission or realize any direct or indirect remuneration which inures to the benefit of the licensee on an expenditure made for a principal.

C. Limitation on broker when transaction not completed. When for any reason the owner fails or is unable to consummate a real estate transaction, the listing broker may not claim any portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser, regardless of whether the commission from the owner has been earned.

4 MCAR § 1.41525 Notice to the commissioner. Licensees shall notify the commissioner of the facts in A.-D.

A. Change of application information. The commissioner shall be notified in writing of a change of information contained in the license application on file with the commissioner within ten days of the change.

B. Civil judgment. The commissioner shall be notified in writing within ten days of a final decision or order of a court, whether or not the decision or order is appealed, regarding any proceeding in which the licensee was named as a defendant, and which alleged fraud, misrepresentation, or the conversion of funds.

C. Disciplinary action. The commissioner shall be notified in writing within ten days of the suspension or revocation of a licensee's real estate or other occupational license issued by this state or another jurisdiction.

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D. Criminal offense. The commissioner shall be notified in writing within ten days if a licensee is charged with, adjudged guilty of, or enters a plea of guilty or nolo contendere to a charge of a felony, gross misdemeanor, misdemeanor, or any comparable offense.

4 MCAR § 1.41526 Access to governing statutes and rules. Every real estate office and branch office shall have a current copy of Minn. Stat. chs. 82 and 83 and the rules adopted thereunder available for the use of licensees.

4 MCAR § 1.41527 Rental services.

A. License. A rental service shall obtain a real estate broker's license prior to engaging in business or holding itself out as being engaged in business. No person shall act as a real estate salesperson on behalf of a rental service without first obtaining a real estate salesperson's license on behalf of the rental service.

B. Dissemination of unit information. A rental service shall not provide information regarding a rental unit without the express authority of the owner of the unit.

C. Availability of unit. A rental service shall not represent a unit as currently available unless its availability has been verified within 72 hours preceding the representation.

D. Advertising. A rental service shall not advertise in a manner which is misleading with regard to fees charged, services provided, the availability of rental units or rental terms or conditions.

4 MCAR § 1.41528 Fraudulent, deceptive, and dishonest practices. For the purposes of Minn. Stat. § 82.27, subd. 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

A. Act on behalf of more than one party to a transaction without the knowledge and consent of all parties;

B. Act in the dual capacity of licensee and undisclosed principal in any transaction;

C. Receive funds while acting as principal, which funds would constitute trust funds if received by a licensee acting as an agent unless the funds are placed in a trust account. Funds need not be placed in a trust account if a written agreement signed by all parties to the transaction specifies a different disposition of the funds, see 4 MCAR § 1.41505 D.;

D. Violate any state or federal law concerning discrimination intended to protect the rights of purchasers or renters of real estate;

E. Make a material misstatement in an application for a license or in any information furnished to the commissioner;

F. Procure or attempt to procure a real estate license for himself or herself or any person by fraud, misrepresentation, or deceit;

G. Represent membership in any real-estate related organization in which the licensee is not a member;

H. Advertise in any manner which is misleading or inaccurate with respect to properties, terms, values, policies, or services conducted by the licensee;

I. Make any material misrepresentation or permit or allow another to make any material misrepresentation;

J. Make any false or misleading statements, or permit or allow another to make any false or misleading statements of a character likely to influence, persuade, or induce the consummation of a transaction contemplated by Minn. Stat. ch. 82;

K. Fail within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to another;

L. Commingle with his or her own money or property trust funds or any other money or property of another held by the licensee;

M. Demand from a seller a commission to which the licensee in not entitled;

N. Pay or give money or goods of value to an unlicensed person for any assistance or information relating to the procurement by a licensee of a listing of a property or of a prospective buyer of a property. This paragraph does not apply to money or goods paid or given to the parties to the transaction;

O. Commingle personal or other funds with trust funds or fail to maintain a trust account at all times, as provided by law;

P. Engage, with respect to the offer, sale, or rental of real estate, in an anticompetitive activity.

A licensee shall be deemed to have violated this provision if he has been found to have violated the Minnesota Antitrust Law of 1971, Minn. Stat. §§ 325D.49-325D.66 by a final decision or order of a court of competent jurisdiction.

Nothing in 4 MCAR § 1.41528 limits the authority of the commissioner to take actions against a licensee for fraudulent, deceptive, or dishonest practices not specifically described in this rule.

4 MCAR § 1.41529 Salespersons; initial real estate education requirements.

A. Generally. An approved 90-hour course of initial education shall consist of three 30-classroom-hour courses to be designated as Course I, Course II, and Course III. Pursuant to Minn. Stat. § 82.22, subd. 6, each applicant for a salesperson's license or salesperson is required to complete all courses successfully. Courses I, II, and III must be taken in sequence and may not be taken concurrently.

B. Salesperson's examination. Applicants must successfully complete the salesperson's examination within one year after the successful completion of Course I. After this date, credit for Course I will expire and successful completion of the first 30-hour course must be repeated before taking the salesperson's examination.

An exception will be made for students pursuing a full-time course of study in either a two-year or four-year real estate education program. The burden of demonstrating full-time status is on the student. Applicants must successfully complete the salesperson's examination within one year after the successful completion of the two-year or four-year course of study.

C. Application for salesperson's license. Applicants must apply for a salesperson's license within one year after successful completion of the licensing examination. Applicants who fail to apply for a license within the one-year period must retake Course I and successfully complete the examination.

D. Post-licensing education course. Courses II and III must be completed within one year after obtaining a salesperson's license.

E. Alternative means of completing initial education. Applicants may elect to complete Course II and Course III prior to examination or licensure and shall receive credit for those courses successfully completed if the applicant is otherwise in compliance with the time limitations set forth in B. and C.

F. Limitations on course substitutions. No course may be substituted for Course I.

Written requests for substitutions for Courses II and III shall be granted if the request is submitted no later than six months prior to the date upon which that education is due to be completed, if:

1. The salesperson is engaged exclusively in a specialized field, such as property management, and the course proposed to be substituted for Course II or III provides the student with at least 30 hours of instruction in that field; or

2. The salesperson demonstrates successful completion of a course in another jurisdiction which is substantially similar to Course II or III.

G. Limitation on use of certain education courses. Courses I and II may not be taken for credit towards a licensee's continuing education requirements.

Any Course III may be taken for credit towards a licensee's continuing education requirements if the licensee has not previously received credit for that course or a substantially similar course.

H. Textbooks required. Courses I, II, and III shall require the use of a textbook. The textbook shall cover substantially the subject matter of the course. The textbook shall be current and may be disallowed by the commissioner upon demonstration that it contains material errors.

I. Completion of initial education. Successful completion of Courses I, II and III includes full-time classroom attendance throughout the course, completion of required assignments or reading materials if applicable, and passage of an examination designed by the school which is sufficiently comprehensive to measure the student's knowledge of all aspects of the course.

J. Course I.

1. Hours. Course I shall incorporate the following number of hours for each of the following topics, for a total of 30 hours:

(a) Introduction to real estate, one hour;

(b) Real estate licensing law (Minn. Stat. chs. 82 and 83), four hours;

(c) Law of agency, four hours;

(d) Law of contracts, five hours;

(e) Real estate financing, six hours;

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(f) Types and classifications of property, three hours;

(g) Examination of title, one hour; and

(h) Title closing, six hours.

2. Curriculum. The Course I curriculum shall be based on the following outline:

I. Introduction to real estate

A. Overview of Course I

1. Course goals
2. Attendance
3. Examination policy
4. Course and instructor evaluation

B. Scope of industry

C. Areas of specialization

D. Industry terminology

E. Professional standards and ethics

F. Broker-salesperson relationship

II. Real estate license law, (Minn. Stat. ch. 82), subdivided land sales practices act (Minn. Stat. ch. 83) and securities act (Minn. Stat. ch. 80A)

A. Real estate license law

1. Purpose of law and rules
2. Administration of law
3. Substantive provisions of law
   a. Trust accounts
   b. Prohibition of fraudulent, deceptive or dishonest practices
   c. Standards of conduct
   d. Federal and state antidiscrimination laws
   e. Licensing requirements
   f. Education requirements
   g. Real estate education, research and recovery fund

B. Subdivided land sales practices act

1. Scope of law
2. Registration and public disclosure provisions
3. Licensing requirements

C. Securities act; potential applicability to real estate

III. Law of agency

A. Agent and agency

1. Broker-principal relationship
2. Termination of relationships
3. Dual agency
4. Cooperative broker

B. Duties of broker and agent

1. Accountability
2. Fiduciary responsibility to seller

3. Full disclosure

C. Listing contract

1. Types

2. Essential elements of a listing agreement

3. Multiple listing

4. Commissions earned

D. Responsibilities to buyer

IV. Contracts

A. Definition

1. Types

2. Essentials

3. Breach; remedies

B. Purchase agreements

1. Examination and analysis

C. Other types of contracts

1. Contract for deed

2. Options

D. Cancellation of contract

E. Property description

1. Lot and block number

2. Metes and bounds

3. Government survey

4. Datum planes

5. Measurement and mathematics

V. Real estate financing

A. Note as evidence of indebtedness

B. Sources of mortgage funds

1. Lenders

2. Secondary mortgage market

3. Owner financing

C. Mortgage

1. Legal elements

2. Theories

a. Lien

b. Title

3. Mortgage clauses

a. Covenants

1. Indebtedness

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2. Insurance
3. Removal
4. Taxes
5. Acceleration clause
6. Warranty of title

b. Special clauses

1. Attorney's fees
2. Receiver
3. Sale in one parcel
4. Trust
5. Prepayment penalties
6. Subordination
7. Due-on-sale clause
8. Condemnation clause
9. Defeasance clause
10. Good repair

D. Types of mortgages

1. FHA
2. VA
3. Conventional/insurance conventional, types currently available
4. Other
5. Points

E. Mortgage assumption and nonalienation

F. Contract for deed financing

G. Foreclosure (default)

1. Mortgage
2. Contract for deed

H. Buyer qualifications

1. Credit information
2. Standards for approval

I. Usury law

VI. Types of property

A. Classification

1. Real property
2. Personal property
3. Fixtures

B. Title

1. Private grant
2. Public grant
3. Political relations

a. Eminent domain

b. Escheat

4. Public policy
   a. Adverse possession
   b. Prescription
   c. License

C. Estates and interests in land
   1. Estates
   2. Fee simple
   3. Life estate (waste)
   4. Remainders and reversions
   5. Other

D. Concurrent ownership
   1. Joint tenancy
   2. Tenancy in common
   3. Other

E. Easements

VII. Examination of title

A. History

B. Examination of abstract

C. Title insurance
   1. Owners
   2. Purchasers
   3. Mortgage

D. Title registration (Torrens)

VIII. Title closing

A. Review of topics I-VII

B. Closing checklist

C. Methods of closing
   1. Closing through escrow
   2. Other

D. Delivery of deed

E. Responsibilities of buyer and seller
   1. Taxes and liens
   2. Reduction certificate (assumption statement)
   3. Insurance
   4. Leases
   5. Bill of sale
   6. Title search
   7. Survey

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8. Leases
9. Certificate of occupancy
10. Violations (ordinances)
11. Apportionments

F. Adjournment of closing (settlement)

G. Real estate settlement procedures act

1. Lender requirements
2. Truth-in-lending (regulation Z)
3. Settlement (closing)

H. Broker's responsibilities

K. Course II.

1. Hours. Course II shall incorporate the following number of hours for each of the following topics, for a total of 30 hours:

(a) Deeds, three hours;

(b) Search and examination of title, one hour;

(c) Residential appraisal, six hours;

(d) Residential construction, two hours;

(e) Land development and use, three hours;

(f) Condominiums, cooperatives, planned unit developments, and manufactured housing, three hours;

(g) Taxation, four hours;

(h) Investment and appraisal, four hours;

(i) Real property management, two hours; and

(j) Leases and leasing, two hours.

2. Curriculum. The Course II curriculum shall be based on the following outline:

I. 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 acknowledgement
8. Seal

B. Delivery

C. Recording

D. Types of deeds

1. Quitclaim
2. Warranty deed and covenants
3. Special warranty deed
4. Other

E. Covenants running with the land

F. Validity

II. Search and examination of title

A. Object of search

1. Chain of title
2. Recording acts

B. Grantor-grantee system of indexing

1. Running the chain of title
2. Grantors
3. Mortgages
4. Lis pendens
5. Judgments
6. Liens
7. Taxes
8. Probate court
9. Special assessments

C. Lot and block indexing

III. Residential appraisal

A. Values

1. Economic concepts
2. Value and price
3. Cost
4. Elements of value
   a. Physical
   b. Economic
   c. Social
   d. Legal
5. Characteristics of value
   a. Utility
   b. Scarcity, demand
   c. Transferability
6. Principles of value
   a. Substitution
   b. Conformity
   c. Anticipation

B. Fundamental considerations

1. Population trends
2. Neighborhood characteristics
3. Building description

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4. Site evaluation
5. Market value

C. Highest and best use
1. Factors of production
2. Diminishing returns
3. Over and under improvement

D. Approaches to value
1. Cost
2. Market
3. Income

E. Appraisal report

.IV. Residential construction
A. Government regulations
B. Architectural styles
C. Plans and specifications
1. Foundations
2. Exterior
3. Interior

D. Disclosure

V. Land development and use
A. Public land use control
1. City planning
a. Enabling acts
b. Planning commissions
c. Capital improvements
d. Master planning
e. Future scope of planning

2. Zoning
a. Purpose
b. Form of ordinances
c. Exclusionary zoning
d. Board of appeals
e. Nonconforming use
f. Variance
g. Green acres law

3. Building codes
4. Environmental impact statements
5. Subdivision regulations

B. Prepurchase
1. Analysis of market
2. Site selection
3. Land costs

4. Drainage, soil tests, topography
5. Utilities
6. Road costs
7. Transportation, schools, shopping
8. Covenants
9. Government
10. Financing
    a. Purchase, option or escrow
    b. Rolling option

C. Planning
1. Subdivision
2. Planned urban development
3. Filing the plat
4. Consumerism and environmental protection
5. Subdivided land sales and practices act
6. State and local land use regulations

D. Urban development and revitalization

VI. Condominiums, cooperatives, planned unit developments and manufactured housing

A. Cluster housing
1. History
2. Economics
    a. Land use efficiency
    b. Amenities

B. Condominiums
1. Rights and obligations
    a. Declaration
        1. Bylaws
        2. Rules and regulations
        3. Assessments and collections
        4. Homeowners associations
    b. Map
    c. Conveyance
    d. Management agreement
        1. Duties
        2. Enforcement of rules
        3. Collection of fees and dues
2. Financing
3. Time share ownership

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4. Minnesota Condominium Act
5. Conversions
   a. Physical changes
   b. Feasibility
   c. Tenant rights
   d. Moratoriums

C. Cooperatives
1. Cooperator (individual shareholder)
2. Refinancing methods
3. Owner's association
4. Tax treatment (the 80 percent rule)
5. Other forms

D. Planned unit developments
1. Planned land uses
2. Organization

E. Manufactured housing
1. Definition
2. Considerations
   a. Site
   b. Value
   c. Safety
3. Financing

VII. Taxation

A. Real property taxes
1. Tax assessment levies
   a. City
   b. County
   c. School district
2. Obtaining tax information
3. Appraisal and classification
4. Homestead status

B. Residential property
1. Basis
2. Adjustment of basis
3. Installment plan sales
4. Tax deferral on sale and repurchase
5. Tax implications of residential ownership

C. Income producing property
1. Long term capital gain and loss
2. Offsetting gains and losses
3. Classification

D. Depreciation on real property

E. Residential rehabilitation expense

VIII. Investment and appraisal

A. Risks

1. Purchasing power
2. Market
3. Interest rates
4. Earning power
5. Liquidity

B. Leverage

C. Cash and tax flow

D. Investment analysis

1. Effective gross income
2. Margin
3. Return on investment

E. Real estate syndication

1. General partners
2. Limited partners
3. Regulation
4. Risks and rewards

F. Real estate investment trusts

G. Appraisal of investment property

1. Net operating income
   a. Converting net income to value
   b. Rate of return (discount rate)
2. Estimate of value

IX. Real property management

A. Background

1. Development of management
2. Scope of management
   a. Residential
   b. Commercial
   c. Industrial
   d. Agricultural
3. Professional management
4. Types of owners

B. Management plan

1. Objectives
2. Regional analysis

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3. Neighborhood analysis
4. Property analysis
   a. Physical
   b. Fiscal
   c. Operational
5. Market analysis
   a. Costs and profit
   b. Comparable
   c. Escalation base
6. Analysis of alternatives
7. Conclusions and recommendations

C. Government and real estate management
1. Local government
   a. Rent control
   b. Handicapped requirements
   c. Fire code requirements
   d. Miscellaneous ordinances
2. State government
   a. Landlord-tenant laws
   b. Nondiscrimination
   c. Extension of tenants' rights
3. Federal government
   a. Nondiscrimination
   b. HUD subsidies
   c. Regulated housing
4. Housing programs

D. Management operations
1. Marketing
2. Tenant underwriting
3. Tenant administration
4. Physical plant maintenance
   a. Preventative maintenance
   b. Energy management
5. Operational record keeping
   a. Physical records
   b. Tenant files
   c. Budget
   d. Fiscal

X. Leases and leasing
A. Statute of frauds
B. Elements of a contract (review)
C. Types of tenancies

1. Estate for years
2. Tenancy from year to year
3. Tenancy at will
4. Tenancy at sufferance
5. Holdover tenants

D. Types of leases

1. Gross
2. Net
3. Percentage
4. Land
5. Farm

E. Form of lease

1. Common covenants
2. Residential leases
3. Responsibilities of lessor
4. Responsibilities of lessee
5. Termination
   a. Expiration
   b. Automatic renewal
   c. Breach of conditions
   d. Abandonment
   e. Eviction
6. Minnesota landlord-tenant act

L. Course III.

1. Hours. Course III shall be a 30-hour course consisting of one of the following:
   (a) Real estate appraisal, 30 hours;
   (b) Closing procedures, 30 hours;
   (c) Farm and ranch brokerage, 30 hours;
   (d) Real estate finance, 30 hours;
   (e) Real estate investment, 30 hours;
   (f) Real estate law, 30 hours;
   (g) Real estate management, 30 hours;
   (h) Real estate mathematics, 30 hours;
   (i) Business brokerage, 30 hours; or
   (j) A combination course of no more than three of the subjects set forth in (a)-(i), 30 hours.
2. Curriculum.
   (a) The real estate appraisal course shall be based on the following outline:

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Real estate appraisal

I. Nature, importance and purposes of appraisals
II. Nature, importance and characteristics of property and value
III. Principles controlling real estate value
IV. The appraisal process
V. Economic and neighborhood analysis
VI. Considerations and fundamentals of site evaluation
VII. Construction methods and materials
VIII. Architectural styles and utility
IX. Cost approach: estimating costs and accrued depreciation
X. Analysis
XI. Market data approach
XII. Income approach: income and expense analysis, capitalization theory and techniques
XIII. Reconciliation and final value estimate
XIV. Writing the report
XV. Course examination

(b) The closing procedures course shall be based on the following outline:

Closing procedures

I. Overview of closing: persons present, protocol, timeliness
II. Review of purchase agreement, supplements, addenda
III. Compilation of data needed to prepare a closing file
IV. Legal documents
V. Abstracts, title procedures
VI. Review of settlement costs: buyer, seller
VII. Closing statement; prorations and other math;
VIII. Review of sample cases
IX. Follow-up procedures
X. Course examination

(c) The farm and ranch brokerage course shall be based on the following outline:

Farm and ranch brokerage

I. Responsibilities of broker to seller and buyer
II. Selling options
III. Sources of financing
IV. Factors in selecting a farm or ranch
V. Advantages and disadvantages of irrigation systems
VI. Determination of farm and ranch value
VII. Considerations in the constructing of purchase agreements
VIII. Course examination

(d) The real estate finance course shall be based on the following outline:

Real estate finance

I. Introduction to the mortgage market
II. Sources of mortgage money

III. Real estate investment trusts and syndication
IV. Mortgage banking
V. Financing residential properties
VI. Financing income producing properties
VII. Construction and land development loans
VIII. Special techniques used in financing real estate
IX. Junior mortgages
X. Land contracts
XI. Financing long term leases
XII. Course examination

(e) the real estate investment course shall be based on the following outline

Real estate investment

I. Real estate investments
II. Discounted cash flow analysis
III. Measuring investment returns
IV. Estimation of real estate cash flows
V. Real estate financing
VI. The tax process
VII. Acquisitions and operations
VIII. Dispositions and exchanges
IX. After tax investment analysis
X. Speculative land investment
XI. Multiple exchanges
XII. Course examination

(f) The real estate law course shall be based on the following outline:

Real estate law

I. The process of real estate law
II. Real estate brokerage
III. Contract for the sale of real estate
IV. Property conveyance
V. Title insurance and closing
VI. Property ownership and taxes
VII. Estates in land and landlord/tenant relationships
VIII. Cooperatives, condominiums and planned unit developments
IX. Real estate lending and land use regulations
X. Course examination

(g) The real estate management course shall be based on the following outline:

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Real estate management

I. Overview and economics of real estate management
II. Government involvement
III. The management plan
IV. Owner relations and record keeping
V. Marketing and leasing
VI. Property operations
  A. Tenant administration
  B. Physical plant maintenance
  C. Staffing and employee relations
VII. Residential management
  A. Rental housing
  B. Condominiums and cooperatives
VIII. Commercial management
  A. Office building and special purpose properties
  B. Shopping centers and retail properties
IX. The management office
X. Creative property management
XI. Course examination

(h) The real estate mathematics course shall be based on the following outline:

Real estate mathematics

I. Functions
  A. Percentages, fractions, decimals: equivalencies, functions
  B. Basic geometric rules
  C. Ratio, proportion, scale
  D. Basic algebraic operations
II. Areas of application to real estate
  A. Broker trust accounts
  B. Sales and listings
  C. Valuation and spatial problems
  D. Finance
  E. Income and investment property
  F. Closing
III. Course examination

(i) The business brokerage course shall be based on the following outline:

I. Business financial statements
II. Financial statement ratio analysis
III. Cash flow, rate of return, and breakeven analysis
IV. Competitive market analysis
V. Valuation of the business
VI. Developing the business plan
VII. Qualifying the buyer

VIII. Terms of the purchase agreement

IX. Financing the business opportunity

X. Evaluation of business risk

XI. Course examination

(j) A combination course shall consist of no more than three of the preceding nine subjects and shall devote at least ten hours to each subject. A school which proposes to offer a combination Course III shall 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.

3. Course objectives

(a) Real estate appraisal. Upon completion of the real estate appraisal course, a student should be able to explain the nature, importance and characteristics of the factors affecting property value; perform an economic and neighborhood analysis; discuss and apply the cost, market and income approaches to value; estimate the value of 1-4 units of residential property; and prepare a written report of the appraisal.

(b) Closing procedures. Upon completion of the closing procedures course, a student should be able to develop a checklist of activities and documents needed to carry out a closing; coordinate the compilation of information and documents from all parties to a closing; interpret all information on a purchase agreement; compute prorations and other calculations required for a closing; complete acceptable legal formats for all documents serving to transfer title; prepare an accurate closing statement; and develop a closing file system.

(c) Farm and ranch brokerage. Upon completion of the farm and ranch brokerage course, a student should be able to utilize the management assistance available to brokers, buyers and sellers of farm real estate; determine the value of farm or ranch real estate; understand the components that make up farm and ranch real estate; identify and describe methods of financing farm and ranch property; and understand the considerations in the preparation of a purchase agreement for the sale of farm or ranch property.

(d) Real estate finance. Upon completion of the real estate finance course, a student should be able to identify and describe methods of financing real property; explain the role of financial institutions in financing the purchase or sale of real estate; utilize compound interest or "time value of money" concepts to facilitate investment and financing decisions; apply these methods to solve client financing problems; and discuss the practices and procedures of loan application, analysis, closings and foreclosure.

(e) Real estate investment. Upon completion of the real estate investment course, a student should be able to understand and describe investment tax considerations such as depreciation, capital gains, installment sales and exchanges; utilize the mathematics of real estate investment; perform feasibility studies including market analysis; perform property analysis; and apply techniques of investment analysis to specific types of real estate.

(f) Real estate law. Upon completion of the real estate law course, a student should be able to understand the process of real estate law, its historical origins, and the legal responsibilities placed upon real estate salespersons and brokers; prepare and understand the basic contracts of property conveyance; explain the major legal aspects of property conveyance, property ownership, insurance settlement procedures, taxes and leasing agreements; recognize and apply the specific requirements in planned unit developments, condominium and cooperative housing transactions; and understand the requirements of real estate lending and land use regulations.

(g) Real estate management. Upon completion of the real estate management course, a student should be able to explain and discuss the scope, nature and importance of property management; outline the essentials of a management plan; and understand the significant differences between residential, commercial, industrial and retail property management.

(h) Real estate mathematics. Upon completion of the real estate mathematics course, a student should be able to identify required mathematical procedures to be used in real estate transactions; perform required mathematical functions with a high level of accuracy; isolate and explain the steps of each calculation; and explain mathematical procedures to clients as needed.

(i) Business brokerage. Upon completion of the business brokerage course, a student should be able to evaluate

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business financial statements, qualify potential buyers, review relevant markets including competition, develop a business plan, value the firm's assets and goodwill, negotiate the terms of a purchase agreement, and explain terms of financing, valuation, and business risk to a potential buyer.

4 MCAR § 1.41530 Continuing education.

A. Generally. Continuing education shall consist of approved courses which impart substantive and procedural knowledge in the real estate field.

B. Attendance. Courses must be attended in their entirety in order for a licensee to obtain credit. No credit will be given for partial attendance at a course.

C. Credit approved. Courses will be approved only in hour segments. No fractional hours will be approved, nor will applicants be given credit for any period of less than a whole hour.

D. Examinations. Course examinations will not be required for continuing education courses unless they are required by the school or the licensee elects to take Course III for continuing education credit.

E. Textbooks. Textbooks are not required to be used for continuing education courses. In instances in which 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.

F. Credit earned. Upon completion of approved courses, students shall earn one hour of continuing education credit for each hour of attendance and approved instructors shall earn three hours of continuing education credit for each hour of instruction. Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor.

G. Disapproved courses. Approval will not be granted for courses (1) designed to prepare students for passing any licensing examinations; (2) in mechanical office or business skills, including typing, speed-reading, use of calculators or other machines or equipment; (3) in sales promotion, including meetings held in conjunction with the general business of the licensee's broker; (4) or in motivation, salesmanship, psychology or time management.

H. Continuing education credit for Course III. Licensees may attend or teach Course III for continuing education credit. Credit will be given for less than the entire Course III only for combination courses offered pursuant to 4 MCAR § 1.41529 L.1.j. Credit will be given only for attendance at segments of the combination Course III which completely cover a subject. An examination will be required only if the licensee takes the entire combination course or if the school requires a separate examination for each subject covered.

The burden of demonstrating that courses impart substantive and procedural knowledge in the real estate field is upon the person seeking approval or credit.

4 MCAR § 1.41531 General real estate education requirements. Rules 4 MCAR §§ 1.41532-1.41548 constitute general requirements applicable to all real estate education courses.

4 MCAR § 1.41532 Course approval.

A. Generally. Courses must be approved by the commissioner in advance and will be approved or disapproved on the basis of their compliance with the provisions of Minn. Stat. § 82.22 and the rules adopted thereunder.

No advance approval is required for continuing education offerings if the licensee demonstrates attendance at an offering which was in substantial compliance with Minn. Stat. ch. 82 and the rules adopted thereunder.

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

B. Permitted course offerings. Courses complying with Minn. Stat. ch. 82 and the rules adopted thereunder may be offered or sponsored by schools.

Coordinators must immediately notify the commissioner of any material change in an application for approval or in the exhibits attached to it.

C. Limitation on advertising. Courses may not be advertised prior to approval.

D. Applications. Applications for course approval will be accepted on forms prescribed by the commissioner no later than 30 days prior to the course offering and shall include the following:

1. The course title;
2. The date, time, and place of the course offering;
3. The name, address, and telephone number of the sponsoring entity;
4. The name, address, and telephone number of the course coordinator;

5. The name, address, and telephone number of the instructor;

6. The name, edition, and date of publication of the text to be used, if applicable;

7. A detailed outline of the course offering, or a statement of compliance with the prescribed outlines for Course I, II, or III; and

8. Compliance with the service of process provisions of Minn. Stat. § 82.31, if applicable.

The form in 4 MCAR § 1.41555 (RE-3) shall be used for Courses I, II, and III and the form in 4 MCAR § 1.41558 (RE-6) shall be used for continuing education courses.

E. Subsequent offerings of courses. Approval shall be granted for subsequent offerings of identical continuing education courses without requiring a new application if a Notice of Subsequent Offerings, 4 MCAR § 1.41560 (RE-8), is filed with the commissioner at least 30 days in advance of the date the course is to be held.

Subsequent offerings of identical Courses I, II, and III do not require the approval of or notice to the commissioner.

4 MCAR § 1.41533 Courses open to all. All course offerings shall be open to any interested individuals. Discounts of tuition shall not be given because of affiliation with any particular brokerage or franchise.

4 MCAR § 1.41534 Course coordinator.

A. Requirement. Each course of study shall have one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with Minn. Stat. ch. 82 and the rules adopted thereunder. Schools may engage an additional approved coordinator in order to assist the coordinator or to act as a substitute for the coordinator in the event of an emergency or illness.

B. Qualifications. The commissioner shall approve as a coordinator a person meeting one or more of the following criteria:

1. A minimum of the previous five years as an active real estate broker;

2. At least three years of full-time experience in the administration of an education program during the five-year period immediately preceding the date of application; or

3. A degree in education plus two years real estate experience.

Application for approval must be submitted on the form in 4 MCAR § 1.41554 (RE-2).

C. Responsibilities. A coordinator shall be responsible for:

1. Assuring compliance with all laws and rules pertaining to real estate education;

2. Assuring that students are provided with current and accurate information relating to the laws and rules governing their real estate activity;

3. Supervising and evaluating courses and instructors. Supervision shall include 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. Furnishing the commissioner, upon request, with copies of evaluations of instructors or courses;

5. Investigating complaints related to course offerings and instructors;

6. Maintaining records relating to course offerings, instructors, and student attendance for a period of three years from the date on which the course was completed. These records shall be made available to the commissioner upon request.

In the event that a school should cease operation for any reason, the coordinator shall be responsible for maintaining the records or providing a custodian for the records acceptable to the commissioner. Under no circumstances will the commissioner act as custodian of the records. In order to be acceptable to the commissioner, custodians must agree to make copies of acknowledgements available to students at a reasonable fee.

7. Assuring that the coordinator is available to instructors and students throughout course offerings and providing the name of the coordinator and a telephone number at which the coordinator can be reached;

8. Attending workshops or instructional programs as reasonably required by the commissioner;

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9. Reporting on the form in 4 MCAR § 1.41557 (RE-5) the attendance of licensed students in Courses II and III to the commissioner within 14 days of their completion of the course; and

10. Providing students with Course Completion Certificates, 4 MCAR § 1.41553 (RE-1), for Courses I, II, and III, and continuing education courses.

4 MCAR § 1.41535 Instructors.

A. Requirement. Each course of study shall have an instructor who is qualified by education, training, or experience to insure competent instruction.

B. Qualifications. The following provisions relate to the approval and qualification of instructors:

1. Applicants shall submit requests for instructor approval on the form in 4 MCAR § 1.41556 (RE-4) for Courses I, II, and III and the form in 4 MCAR § 1.41559 (RE-7) for continuing education courses. Requests must be submitted at least 30 days prior to instruction in an approved course;

2. Applicants for Courses I, II, and III shall be approved if they achieve a rating of 70 points or higher based upon the scale in Exhibit 4 MCAR § 1.41535 B.-1.

Exhibit 4 MCAR § 1.41535 B.-1.

Ratings for Applicants Seeking Approval
as Instructors of Courses I, II, and III

POINTS	CRITERIA
20	2-year degree or certificate;
40	4-year degree;
50	post graduate degree;
60	2-year real estate degree or certificate;
70	4-year real estate degree or certificate. Points may not be accumulated in the case of individuals holding more than one degree or certificate;
10	Each 45 hours of continuing real estate education attended or taught. No points will be allowed for periods of less than 45 hours;
30	First three-year period in which engaged full-time in the real estate industry as a licensed broker or salesperson or, in the case of applicants for Course III, the first three-year period in which engaged full-time in a business or profession relating to the subject being taught. No points will be allowed for an applicant who has been licensed for less than three years or who has been engaged in a related business or profession for less than three years;
10	Each full year, after the first full three years, in which engaged full-time in the real estate industry as a licensed broker or salesperson or, in the case of applicants for Course III, each full year, after the first full three years, in which engaged full-time in a business or profession relating to the subject being taught.

3. The same instructor may teach all three courses. Instructors may engage a nonapproved or guest instructor to teach up to ten hours of specialized coursework covered in Course I, II, or III. Approved instructors remain responsible for complying with the provisions of C.; and

4. Continuing education instructors must have either:

a. a degree in any area plus two years practical experience in the subject area being taught;

b. five years practical experience in the subject area being taught;

c. a college or graduate degree in the subject area being taught; or

d. have held a broker's license for three years or have three years practical experience in the subject area being taught. These individuals shall also have completed at least 60 hours of approved continuing education in the subject area being taught.

C. Responsibilities. Approved instructors shall be responsible for the following:

1. Compliance with all laws and rules relating to real estate education;

2. Providing students with current and accurate information;

3. Maintaining an atmosphere conducive to learning in the classroom;

4. 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 such workshops or instructional programs as are reasonably required by the commissioner.

4 MCAR § 1.41356 Prohibited practices for coordinators and instructors.

A. Generally. In connection with an approved course coordinators and instructors shall not:

1. Recommend or promote the services or practices of any particular real estate brokerage, franchise, coordinator, instructor or school;

2. Encourage or recruit individuals to engage the services of, or become associated with, any particular real estate brokerage or franchise;

3. Use materials, clothing, or other evidences of affiliation with any particular real estate brokerage or franchise;

4. Require students to participate in other programs or services offered by the school, coordinator, or instructor;

5. Take a Minnesota real estate licensing examination without the prior approval of the commissioner;

6. Attempt, either directly or indirectly, to discover questions or answers on a real estate licensing examination; or

7. Disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations.

B. Notification of misconduct. Coordinators and instructors shall notify the commissioner within ten days of a felony conviction or of disciplinary action taken against a real estate or other occupational license held by the coordinator or instructor.

C. Coordinators and instructors shall notify the commissioner within ten days of any changes in the information set forth in the application for approval on file with the commissioner.

4 MCAR § 1.41537 Extensions. Upon appropriate showing of a bona fide financial or medical hardship, the commissioner may extend the time period during which post-licensing or continuing education instruction must be successfully completed. Loss of income resulting from cancellation of a license is not a bona fide hardship. Requests for extensions must be submitted in writing no later than 45 days prior to the date of license cancellation and shall include an explanation and verification of the hardship, and a verification of enrollment in an apppoved course of study and the dates during which the course will be held.

4 MCAR § 1.41538 Waivers. Required real estate education shall not be waived for any licensee or applicant for a license.

4 MCAR § 1.41539 Fees. Fees for approved courses and related materials shall be reasonable and clearly identified to students. In the event that a course is cancelled for any reason, all fees shall be returned promptly. In the event that a course is postponed for any reason, students shall 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 a course, school policies regarding refunds shall govern.

4 MCAR § 1.41540 Facilities. Each course of study shall be conducted in a classroom or other facility which is adequate to implement the offering. Approved courses shall not be held on the premises of a real estate brokerage, franchise, or an affiliate thereof.

4 MCAR § 1.41541 Conflict of interest. A course will not be approved if it is offered by a person who derives substantial income from the real estate brokerage business.

4 MCAR § 1.41542 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 of the necessary materials. Outlines and any other materials which are reproduced shall be of readable quality.

4 MCAR § 1.41543 Advertising.

A. Generally. Advertising must be truthful and not deceptive or misleading.

B. Approval statement. No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering may be circulated or distributed in this state unless the following statement is prominently displayed on the cover of it:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

1. For initial education courses, "This course has been approved by the Commissioner of Securities and Real Estate pursuant to Minn. Stat. § 82.22, subd. 6 for initial education courses;" or

2. For continuing education courses, "This course has been approved by the Commissioner of Securities and Real Estate pursuant to Minn. Stat. § 82.22, subd. 13, relating to continuing real estate education."

The preceding language need not be displayed on the cover of any out-of-state offering advertisement; however, it is the responsibility of the school to provide students with evidence that the course has been approved.

C. Approved course advertisements. Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

4 MCAR § 1.41544 Notice. At the beginning of each approved offering, the following notice shall be read to students: "This real estate educational offering is recognized by the Commissioner of Securities and Real Estate as satisfying . . . . . hours of credit toward . . . . . (choose one, or more, of the following: prelicensing, postlicensing, or continuing) real estate education requirements pursuant to Minn. Stat. § 82.22. If you have any comments about this real estate offering, please mail them to the Commissioner of Securities and Real Estate, 500 Metro Square Building, St. Paul, Minnesota 55101."

4 MCAR § 1.41545 Audits. The commissioner reserves the right to audit subject offerings with or without notice to the school.

4 MCAR § 1.41546 Disciplinary action. The commissioner may deny, censure, suspend, or revoke the approval of a coordinator, instructor, or course if it is determined that they are not in compliance with Minn. Stat. ch. 82 or the rules adopted thereunder.

4 MCAR § 1.41547 Course completion certificates. Applicants for a salesperson's license shall submit to the commissioner, along with their application for licensure, a copy of the Course Completion Certificate, 4 MCAR § 1.41553 (RE-1), for Course I, and for Courses II and III if completed prior to being licensed.

Students are responsible for maintaining copies of Course Completion Certificates.

4 MCAR § 1.41548 Reports to commissioner. Continuing education credits shall be reported by the licensee on the form in 4 MCAR § 1.41561 (RE-9).

Forms will not be accepted unless they reflect the entire 45 required hours. Incomplete forms will be returned to the licensee.

Forms must be received by the commissioner no later than June 15 of the year in which the credits are due. Forms which are mailed shall be deemed timely received if addressed to: Real Estate Licensing, 500 Metro Square Building, Saint Paul, MN 55101, and postmarked prior to 12:01 a.m. on June 14. Licensees are encouraged to submit the form as soon as they have completed the 45 hours of continuing education credit.

4 MCAR § 1.41549 Automatic transfer of salesperson's license.

A. Applicability. A salesperson may utilize the automatic license transfer provisions of Laws 1982, ch. 478, section 1, subdivision 9, clause (b) if the salesperson commences his or her association with the broker to whom he or she is transferring, as evidenced by the dates of the signatures of both brokers on the form in 4 MCAR § 1.41562 (RE-10), within five days after terminating his or her association with the broker from whom he or she is transferring, provided the salesperson's educational requirements are not past due.

A salesperson may not utilize the automatic license transfer provisions of Laws 1982, ch. 478, section 1, subdivision 9, clause (b) if he or she has failed to notify the commissioner within ten days of any change of information contained in his or her license application on file with the commissioner or of a civil judgment, disciplinary action, or criminal offense, which notice is required pursuant to 4 MCAR § 1.41525.

B. Procedure. An application for automatic transfer shall be made only on the form in 4 MCAR § 1.41562 (RE-10). The transfer is ineffective if the form is not completed in its entirety.

The form in 4 MCAR § 1.41562 (RE-10) shall be accompanied by a $10 transfer fee, and the license renewal fee, if applicable, plus an additional $10 if the salesperson holds a subdivided land license. Cash will not be accepted. If the licensee holds a subdivided land license it must be transferred at the same time as the salesperson's license. In order for the transfer of the subdivided land license to be effective the broker to whom the salesperson is transferring must also hold a subdivided land license.

The signature on the form in 4 MCAR § 1.41562 (RE-10) of the broker from whom the salesperson is transferring must predate the signature of the broker to whom the salesperson is transferring. The salesperson is unlicensed for the period of time between the times and dates of both signatures. The broker from whom the salesperson is transferring shall sign and date the transfer application upon the request of the salesperson and shall destroy the salesperson's license immediately.

C. Effective date.

1. The transfer is effective when the broker to whom the salesperson is transferring signs and dates the transfer

application form in 4 MCAR § 1.41562 (RE-10), provided the commissioner receives the form and fee within 72 hours after the date and time of the new broker's signature, either by certified mail or personal delivery to the commissioner's office. In the event of a delay in mail delivery, an application postmarked within 24 hours of the date of the signature of the new broker shall be deemed timely received.

2. The transfer is ineffective if the fee is paid by means of a check, draft or other negotiable or non-negotiable instrument or order of withdrawal drawn on an account with insufficient funds.

3. The salesperson shall retain the certified mail return receipt, if the transfer application is delivered to the commissioner by mail, retain a photocopy of the executed transfer application, and provide a photocopy of the executed transfer application to the broker from whom he or she is transferring.

4 MCAR § 1.41550 Approved lender is not a broker. The definition of "real estate broker" or "broker" set forth in Minn. Stat. § 82.17, subd. 4, clause (b) shall not apply to the making of a loan in connection with his or her ordinary business activities by a mortgagee or lender approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association.

4 MCAR § 1.41551 Applicability. Prior rules exclusively govern all suits, actions, prosecutions, or proceedings which are pending or may be initiated on the basis of facts or circumstances occurring before the effective date of these rules. Judicial review of all administrative orders issued prior to the effective date of these rules as to which review proceedings have not been instituted by the effective date of these rules is governed by prior rules.

4 MCAR § 1.41552 Withdrawal of status or application.

A. Request to commissioner. 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 30 days after receipt of a request to withdraw or within a shorter period the commissioner determines unless a revocation, suspension, or denial proceeding is pending when the request to withdraw is filed or a proceeding to revoke, suspend, deny, or to impose conditions 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 may 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.

B. Failure to renew license. If a license lapses or becomes ineffective due to the licensee's failure to file a timely renewal application or otherwise, the commissioner may institute a revocation or suspension proceeding within one year 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.

C. Revocations. If the commissioner finds that any licensee or applicant is no longer in existence or has ceased to do business as a broker or salesperson 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.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

4 MCAR § 1.41553 Course Completion Certificate. The real estate education course completion certificate shall be in the form in Exhibit 4 MCAR § 1.41553-1.

Exhibit 4 MCAR § 1.41553-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-1

COURSE COMPLETION CERTIFICATE

NOTICE TO SCHOOL: Furnish two copies to student.
NOTICE TO STUDENTS:
1. For Course I, attach one copy to license application.
2. For Course II and III, retain for your records unless course was completed prior to licensure. If completed prior to licensure, attach one copy to license application.
3. For continuing education courses, transfer information from this form to Form RE-9 and submit to Real Estate Licensing when total is 45 hours. Retain one copy for your records.

Student's Name (as it appears on your license)	Home Address
City, State, Zip	Company to Which You are Licensed
School/Sponsoring Entity	
Completion Date of Course	☐ Course I ☐ Course II ☐ Course III
☐ Continuing Education — No. of Hrs.	Course No. / Course Title
	Coordinator's Signature / Date

CM-00502-01

4 MCAR § 1.41554 Application for Coordinator Approval. The real estate education application for coordinator approval shall be in the form in Exhibit 4 MCAR § 1.41554-1.

Exhibit 4 MCAR § 1.41554-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-2

APPLICATION FOR COORDINATOR APPROVAL

Name of Applicant		Address
City, State, Zip	Phone ( )	School/Sponsoring Entity for Which Seeking Approval

4 MCAR § 1.41534 Course Coordinator. B. Qualifications – The Commissioner shall approve as a coordinator a person having the following qualifications:

1. A minimum of the previous five years as an active real estate broker
   OR:
2. At least three of the prior five years of full time experience in the administration of an education program
   OR:
3. A degree in education plus two years real estate experience.

Educational Background Relating to Criteria for Approval		
School	Dates Attended	Degree (indicate major)

Employment History Relating to Criteria for Approval			
Name of Employer	Address	Date of Employment	Position

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If Yes, date issued: _____ Type of License: _____		

▶ If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendent in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

I certify that the information contained on this application is correct. I understand that if approved as coordinator, I will be responsible for compliance with Minnesota laws and rules relating to real estate education in connection with any courses conducted under my supervision. I further certify that I have read and understood the Minnesota laws and rules relating to real estate education.

Signature of Applicant	Date

I certify that the information contained in this application is correct and that I will notify the Commissioner within ten days of any changes in the information contained herein.

Signature of Applicant	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19__, _____ appeared before me, a Notary Public, and being duly sworn, says that she/he is the applicant; that she/he read the foregoing application and accompanying exhibits, and that the contents are true to her/his knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

I recommend that approval as an instructor be granted for the aforementioned applicant. I understand that I am responsible for the supervision of this instructor pursuant to 4 MCAR § 1.41534C.

Signature of Coordinator	Date

4 MCAR § 1.41555 Application for Course Approval for Course I, II, and III. The real estate education application for course approval for courses I, II, and III shall be in the form in Exhibit 4 MCAR § 1.41555-1.

Exhibit 4 MCAR § 1.41555-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-3

APPLICATION FOR COURSE APPROVAL
FOR COURSE I, II, AND III

Instructions: 1. Attach Service of Process Form (for out-of-state applicants only).
2. Attach Instructor Approval Form if instructor has not previously been approved.

"X" applicable course: ☐ Course I ☐ Course II ☐ Course III

Course Title		School/Sponsoring Entity	
Address		City, State, Zip	Phone (include area code) ( )
Course Dates: From	To	Time	Total Hours
Course Location			
Name of Text		Date of Edition	Author

"X" if you certify that course material is in compliance with prescribed outlines: ☐ Yes ☐ No

If Course III is a combination of subjects, list below:

Subject	Number of Hours

Coordinator	Home Address
City, State, Zip	Phone (include area code) ( )

As coordinator of the proposed offering, I certify that the information contained in this application is correct to the best of my knowledge. I also certify that this course is not being offered by an individual, firm or business organization, the primary income of which is derived from the real estate brokerage business.

Signature of Coordinator	Date

State of _____)
) ss
County of _____)

On this _____ day of _____ 19__, _____ appeared before me, a Notary Public, and being duly sworn, says that she/she has read the foregoing application and accompanying exhibits, and that the contents thereof are true to her/his own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

FOR OFFICE USE ONLY		
Course No.	Course Title	Date Approved
Reason for Non-approval		
Signature	Title	

4 MCAR § 1.41556 Application for Instructor Approval for Courses I, II, III. The real estate education application for instructor approval for courses I, II, and III shall be in the form in Exhibit 4 MCAR § 1.41556-1.

Exhibit 4 MCAR § 1.41556-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-4

APPLICATION FOR INSTRUCTOR APPROVAL
FOR COURSES I, II, III

Name of Applicant	Address	
City, State, Zip	Phone (include area code) ( )	School/Sponsoring Entity

4 MCAR § 1.41535 Instructors 2. Applicants for Course I, II, and III shall be approved if they achieve a rating of 70 points or higher based upon the scale below.

Points	
20	2 year degree or certificate
40	4 year degree
50	Post graduate degree
60	2 year real estate degree or certificate
70	4 year real estate degree or certificate
10	Each 45 hours of approved continuing real estate education attended or taught.
30	First three year period in which engaged full time in real estate industry or profession related to area of teaching.
10	Each successive year in which engaged in full time in real estate or profession relating to area of teaching.

Educational Background For Which Applicant Seeks Points		
Name of School	Dates Attended	Degree

Educational Points: _____

Continuing Real Estate Education For Which Applicant Seeks Points	
Total No. of Hours Attended	Total No. of Hours Taught

Continuing Education Points: _____

Professional Experience For Which Applicant Seeks Points		
Place of Employment	Dates	Position Held

Experience Points: _____

TOTAL POINTS: _____

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If yes, date issued: _____ Type of License: _____		

▶If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendant in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

OVER

I certify that the information contained in this application is correct and that I will notify the Commissioner within ten days of any changes in the information contained herein.

Signature of Applicant	Date

State of _____)
) ss
County of_____)

On this _____day of _____, 19___, _____ appeared before me, a Notary Public, and being duly sworn, says that she/he is the applicant; that she/he read the foregoing application and accompanying exhibits, and that the contents are true to her/his knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

I recommend that approval as an instructor be granted for the aforementioned applicant. I understand that I am responsible for the supervision of this instructor pursuant to 4 MCAR § 1.41534C.

Signature of Coordinator	Date

4 MCAR § 1.41557 Course II and III Record of Completion. The real estate education courses II and III record of completion shall be in the form in Exhibit 4 MCAR § 1.41557-1.

Exhibit 4 MCAR § 1.41557-1

State of Minnesota
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St. Paul, Minnesota 55101
(612) 296-9458

RE-5

COURSE II and III RECORD OF COMPLETION

This form is to be submitted by schools/sponsoring entities within 14 days of course completion.

"X" one: ☐ Course II ☐ Course III

Completion Date

Student Name	Home Address	Company Name

Coordinator's Signature	Date	Name of School/Sponsoring Entity

School/Sponsoring Entity Address	City, State, Zip

CM-00506-01

4 MCAR § 1.41558 Application for Course Approval for Continuing Education. The real estate education application for course approval for continuing education shall be in the form in Exhibit 4 MCAR § 1.41558-1.

Exhibit 4 MCAR § 1.41558-1

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Securities and Real Estate Division
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St. Paul, Minnesota 55101
(612) 296-9458

RE-6

APPLICATION FOR COURSE APPROVAL
FOR CONTINUING EDUCATION

Instructions:
1. Attach a Service of Process Form (for out-of-state applicants only).
2. Attach syllabus (pursuant to 4 MCAR § 1.41530 (E) and include the time allotted to each segment in the outline.
3. Attach instructor approval form.

Course Title		School/Sponsoring Entity	
Address	City, State, Zip		Phone (include area code) ( )
Course Dates: From	To	Time	Total Hours
Course Location			
Name of Text (if applicable)	Date of Edition	Author	

Coordinator	Home Address
City, State, Zip	Phone (include area code) ( )

As coordinator of the proposed offering, I certify that the information contained in this application is correct to the best of my knowledge. I also certify that this course is not being offered by an individual, firm or business organization, the primary income of which is derived from the real estate brokerage business.

Signature of Coordinator	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19__, _____ appeared before me, a Notary Public, and being duly sworn, says that she/he has read the foregoing application and accompanying exhibits, and that the contents thereof are true to her/his own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

FOR OFFICE USE ONLY		
Course No.	Course Title	Date Approved
Reason for Non-Approval		
Signature	Title	

CM-00507-01

4 MCAR § 1.41559 Application for Instructor Approval for Continuing Education. The real estate education application for instructor approval for continuing education shall be in the form in Exhibit 4 MCAR § 1.41559-1.

Exhibit 4 MCAR § 1.41559-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-7

APPLICATION FOR INSTRUCTOR APPROVAL
FOR CONTINUING EDUCATION

Name of Applicant	Address
City, State, Zip	Telephone (include area code) ( )
Course Title	School/Sponsoring Entity

4 MCAR § 1.41535 Instructors B. (4) Continuing Education instructors must have a degree in any area plus two years practical experience in the subject being taught; OR five years practical experience in the subject area being taught; OR a college degree in the subject area being taught; OR have held a broker's license for 3 years, or have 3 yrs. practical experience in the subject area being taught, and have completed at least 60 hours of approved continuing education in the subject area being taught.

College/University			
Name of School	Address	Year of Graduation	Major

Experience Related to Subject Area			
Dates	Place of Employment	Address	Position Held

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If yes, date issued: _____ State _____ Type of License: _____		

▶If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendent in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

I certity that the information contained in this application is correct and that I will notify the Commissioner within ten days of any changes in the information contained herein.

Signature of Applicant	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19___, _____ appeared before me, a Notary Public, and being duly sworn says that she/he is the applicant; that he/she has read the foregoing application and accompanying exhibits, and that the contents are true to his/her own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

4 MCAR § 1.41560 Notice of Subsequent Offerings of Continuing Education Courses. The real estate education notice of subsequent offerings of continuing education courses shall be in the form in Exhibit 4 MCAR § 1.41560-1.

Exhibit 4 MCAR § 1.41560-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-8

NOTICE OF SUBSEQUENT OFFERINGS
OF CONTINUING EDUCATION COURSES

This Form is to be used to notify the Commissioner no later than 30 days in advance of the proposed offering of previously approved courses.

Course No.	Course Title	School/Sponsoring Entity	
School Address	City, State, Zip	Phone (area code) ( )	
Coordinator's Name	Home Address	City, State, Zip	
Course Dates: From	To	Time	Total Hours
Course Location			

Submitted by (print or type)	Signature
Title	Date

CM-00509-01

4 MCAR § 1.41561 Continuing Education Course Verification. The real estate education continuing education course verification shall be in the form in Exhibit 4 MCAR § 1.41561-1.

Exhibit 4 MCAR § 1.41561-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

CONTINUING EDUCATION
COURSE VERIFICATION

The information which you furnish on this form will be used to determine whether you have complied with the continuing education requirement of Minnesota Statutes, Chapter 82. You are not legally required to provide this information. However, if you fail to do so, the Department of Commerce will be unable to renew your real estate license. Information contained on this application, other than name and address, will be private pursuant to Minnesota Statute, Chapter 15.

Instructions

1. This form is an on-going record of your continuing education credits for the three year reporting period. Attach additional forms if necessary.
2. Each time you complete a continuing education course, enter the course number, date completed, course title and the number of hours of credit received.
3. When the total number of hours received reaches 45, sign and date the bottom of the form and promptly submit to:

   Real Estate Licensing
   500 Metro Square Building
   St. Paul, MN 55101

   Do not wait until the renewal of your license. Retain a copy for your records.
4. Be sure that all information requested is provided. Incomplete forms will be returned to the licensee.
5. If credit is earned as instructor, place "instructor" next to the course title. Instructors may earn three credit hours for each one hour taught, only the first time a course is taught.

Name (as it appears on your license)	License No.	Name of Company to Which You Are Licensed
Home Address		City, State, Zip

Course No.	Date Completed	Course Title	Credit Hours
		TOTAL	

CERTIFICATION

I certify that I have taken and completed the courses listed above and will furnish to the Securities and Real Estate Division, upon request, evidence of having taken any or all of the courses listed.

Signature	Date

4 MCAR § 1.41562 Real Estate Salesperson Automatic Transfer. The real estate salesperson automatic transfer shall be in the form in Exhibit 4 MCAR § 1.41562-1.

Exhibit 4 MCAR § 1.41562-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, MN 55101
(612) 296-9458

RE-10

REAL ESTATE SALESPERSON
AUTOMATIC TRANSFER

The data which you furnish on this form will be used to implement the automatic transfer of your real estate salesperson's license. You are not legally required to provide this data. However, if you fail to do so you will be unable to utilize the automatic license transfer provision of Minnesota Statute §82.20, Subd. 9(b). Disclosure of your social security number is voluntary, authorized by Minnesota Statute, Chapter 270A. Your social security number may be used to recapture payments made out of the Recovery Fund. Information contained in this application, other than your name and address, will be private pursuant to Minnesota Statutes, Chapter 15.

This form may be used to effect an automatic transfer of a salesperson's license from one broker to another broker provided:

a) the applicant's educational requirements are not past due;
b) this form is completed in its entirety;
c) the applicant commences his/her association with the broker to whom he is transferring within five days after terminating his association with the broker from whom he/she is transferring;
d) the appropriate transfer fee is attached (if the applicant transfers between May 1 and June 30, inclusive, of any year he/she must also pay the renewal fee in addition to the transfer fee);
e) this form and the appropriate fees are received either by certified mail or personal delivery to the Securities and Real Estate Division of the Department of Commerce within 72 hours of execution by the broker to whom the applicant is transferring; (in the event of a delay in mail delivery, an application postmarked within 24 hours of the date of the signature of the new broker shall be deemed timely received);
f) the signature of the previous broker pre-dates the signature of the broker to whom the salesperson is transferring;
g) the applicant is in compliance with 4 MCAR Section 1.41525 concerning notice to the commissioner of any change of information contained in his/her license application or of any civil judgment, disciplinary action or criminal offense.

"X" one:				
☐ Transfer	$10.00	☐ Transfer and Renewal*	$25.00	
☐ Transfer with Subdivided Land	$20.00	☐ Transfer and Renewal with Subdivided Land*	$35.00	

*Renewal fees are subject to increase due to special assessments for the Real Estate Education, Research and Recovery Fund. If transferring between May 1 and June 30, inclusive, of any year contact the commissioner's office to determine whether a special assessment has been made.

Applicant's Name as it Appears on License	Social Security No.	License No.
Home Address	City, State, Zip	

Broker (company to whom presently licensed)		License No.
Signature of Broker	Time	Date

Broker (company to whom you will be licensed)		License No.
I understand that I, as broker, am responsible for the real estate activities of this salesperson as of the time and date below:		
Signature of Broker	Time	Date

I hereby certify that I currently hold a Minnesota Real Estate Salesperson's License and that I am eligible for an immediate transfer; that I am not past due for any educational requirements; and that all information contained herein is true and accurate. Further, I understand that I am unlicensed for any period of time between the signatures of the terminating broker and the broker to whom I am transferring. I understand and acknowledge that if this application is not received by the Securities and Real Estate Division within 72 hours of execution of the broker to whom I am transferring, or that if this application is not completed in its entirety, I am not eligible for an immediate transfer. I further certify that I have not failed to notify the Commissioner within 10 days of any change of information contained in my license application or of any civil judgment, disciplinary action or criminal offense, which notice is required pursuant to 4 MCAR 1.41525. (If this application is submitted to the Commissioner by certified mail, the return receipt shall constitute evidence of delivery.)

Signature of Applicant	Date

CM-00511-01

APPLICANT MUST RETAIN A PHOTOCOPY OF THIS DOCUMENT AS EXECUTED AND SHALL ALSO PROVIDE THE BROKER FROM WHOM HE IS TRANSFERRING WITH A PHOTOCOPY OF THIS DOCUMENT AS EXECUTED.

Repealer. 4 MCAR § 1.41504, 4 MCAR § 1.41508, 4 MCAR § 1.41509, 4 MCAR § 1.41511, the forms following 4 MCAR § 1.41511, and 4 MCAR § 1.41512 are repealed.

Effective date. Rules 4 MCAR §§ 1.41529-1.41548 and 4 MCAR §§ 1.41553-1.41561 are effective January 1, 1983.

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

SECURITIES AND REAL ESTATE DIVISION

In the Matter of the Proposed
Adoption, Amendment and Repeal of Rules
and Forms of the State Department of
Commerce, Securities and Real Estate
Division, Governing Real Estate Brokers
and Salespersons

FINDINGS OF FACT
AND CONCLUSIONS

After proper notice required by Minnesota Statutes § 15.0412 was published in the State Register and given by United States mail to all persons, associations and other interested groups registered with the State Department of Commerce and the Securities and Real Estate Division for that purpose, and after affording interested persons an opportunity to present comments and having considered all of the evidence herein, I find and conclude as follows:

That the proposed rules as published at 6 State Register 2369 (1982) should be adopted as modified in the following manner:

(1) 4 MCAR § 1.41500 D. (All section references are to 4 MCAR.) The proposed definition of "loan broker" exempts licensed real estate brokers and salespersons who represented purchasers of real estate. At the request of the Minnesota Association of Realtors this exemption language has been expanded to include licensees who represent sellers as well. The revision does not alter the original intent of the exemption, which was to remove from the definition of "loan broker" real estate licensees who, incidental to the purchase or sale of real estate, assist clients in obtaining financing. (See paragraph (1) of the August 12, 1982 letter of the Minnesota Association of Realtors, hereafter "Exhibit A".)

(2) § 1.41501 B. The proposed rule requires applicants and licensees to request a refund of an overpayment of any fee within a period of three months. At the suggestion of the Minnesota Association of Realtors the period has been extended to six months. The revision does not change the intent of the rule, which was to establish a reasonable but definite time within which refund requests must be made. (See paragraph (2) of Exh.A.)

(3) § 1.41503 A. The proposed rule sets forth the circumstances under which a real estate broker may be issued an additional license or licenses. The rule establishes three criteria: (1) legitimate business purpose (2) ability to supervise salespersons and (3) a substantial ownership interest.

The proposed revision states that under certain circumstances an applicant for an additional license need not demonstrate a substantial ownership interest in the entity for or on whose behalf he/she would hold the additional license.

It has been brought to the agency's attention that certain real estate companies have established separate but affilitated corporations to deal with various specialized aspects of the sale, lease, management or financing of real estate. Individuals who hold a broker's license for or on behalf of the "parent" and who are usually officers of the parent, often are made officers of the affiliated companies as well. Since the license law (Minn. Stat. 82.20, Subd. 4(a)) requires licensure of each officer who intends to act as a broker, many of these individuals would be precluded from participating in the activities of the affiliate.

The proposed revision would allow such individuals to hold an additional license, provided they meet the first two criteria.

The primary intent of the proposed rule, and especially the "substantial ownership interest" requirement, is to prevent licensed brokers from obtaining an additional license in order to, in effect, "sell" the additional license to an individual or company which was not qualified to obtain a license.

The agency believes that the abuses intended to be addressed by the proposed rule are not likely to exist in the case of the grant of an additional license to a broker who will act for or on behalf a corporation which is an affiliate of a corporation for or on whose behalf he is already licensed (See paragraph (14) of Exh. A.)

(4) § 1.41519 B.7. The proposed rule requires that a boldface notice be included in all listing agreements to the effect that real estate commissions are not fixed by law and may not be fixed by means of an agreement between or among competing real estate companies.

It has come to the attention of the agency that licensees who are members of the Minneapolis Board of Realtors are required, pursuant to the terms of a permanent injunction, to insert similar language on all listing agreements. The agency believes that requiring certain licensees to insert two separate, but similar, notices is unnecessary and accepts the language of the injunction, as set forth in the adopted rule, as an acceptable alternative. (See paragraph (3) of Exh. A.)

(5) § 1.41520. The proposed rule, which requires disclosure of the terms and conditions of a guaranteed sale program, is amended to clarify that only the general terms and conditions of the program need be disclosed. (See paragraph (13) of Exh. A.)

(6) § 141521 D. The proposd rule creates a duty on the part of a licensee to notify one party to a real estate transaction of the other party's unwillingness or inability to perform. The proposed rule has been revised to limit the duty of disclosure to those situations where the licensee is made aware of a party's intent not to perform by the party himself. As proposed the rule was unclear as to whether the licensee was required to act on hearsay or other unsubstantiated evidence of non-performance.

The revision also clarifies that the duty is not intended to extend to notice of a party's inability to meet or fulfill a contingency to which the real estate transaction has been made subject, as all parties are aware from the outset of the transaction of the possibility that the contingency may not be met. Finally, the rule as proposed limits the duty of disclosure to situations where the licensee was aware that the "non-breaching" party had acted or was likely to act to his or her detriment in reliance upon the consummation of the transaction. This requirement has been eliminated due to the difficulty, in many cases, of determining whether a party has or is likely to act to their detriment or whether such action was in reasonable reliance upon the anticipated consummation of the transaction (See paragraph (4) of Exh. A.)

(7) § 1.41522. The proposed rule is patterned after an existing rule but was expanded to include projections as well as guarantees of future profits or earnings. The rule relates primarily to commercial transactions.

As revised the rule would delete any references to projections. The agency believes that the burden to licensees and sellers of reducing to writing all projections, including "puffing" is greater than the benefit to prospective buyers warrants. Most buyers in a commercial transaction are sufficiently knowledgeable and experienced to realize that such statements fall short of a guarantee and that the extent to which they should be relied upon is limited. (See paragraph (5) of Exh. A.)

(8) § 1.41523 A. The proposed rule is revised to require that only written offers be promptly submitted. The revision clarifies that informal communications with the seller or lessor regarding possible terms and conditions, made during the negotiation stage of a transaction and prior to the making of a firm offer, are not required to be committed to writing or communicated to the other party.

(9) § 1.41523 C. The proposed rule requires licensees to inform buyer and sellers of the approximate amount of closing costs. As revised, the rule would require that buyers and sellers be informed generally that such costs may reduce the amount of money they receive at closing or increase their cash outlay at closing. The intent of the proposed rule is to inform buyers or sellers prior to the execution of a purchase agreement that there may be additional costs, or what a consumer might think of as "hidden" costs, involved in purchasing or selling real estate. The agency believes

that the revised language achieves the same goal. In addition, it has been brought to the attention of this agency that it may in many cases be impossible to provide reliable estimates of closing costs prior to execution of a purchase agreement and that erroneous estimates may mislead consumers. (See paragraph (7) of Exh. A.)

(10)§1.41524 C. The proposed rule is intended to expand upon existing rule 1.41505 (trust funds) by clearly indicating that a licensee may not take his or her commission out of trust account funds in a situation where the licensee's client, the seller, fails or is unable to consummate a transaction. The revised language clarifies that the rule applies only where the seller's inability or failure to perform are through no fault of the purchaser. If the licensee believes the purchaser is at fault he must still comply with rule 1.41505, which states that trust funds must be maintained in the trust account in accordance with the terms of the applicable agreements and that a proper accounting be made to the parties entitled to an accounting. The final clause of the rule is also deleted since the preceding language already indicates that the rule applies in all cases where the owner fails to consummate the transaction, other than through fault of the purchaser.

(11) § 1.41525 B. The proposed rule requires licensees to notify the commissioner of a final judicial decision

where the licensee has been named as a defendant in a civil lawsuit alleging fraud, misrepresentation or the conversion of funds, i.e., actions which reflect upon the licensee's integrity and fitness to hold a license. The revisions clarify that licensees need not notify the commissioner if they are found innocent of such charges or if the adverse decision pertains to allegations other than those enumerated above. (See paragraph (9) of Exh. A.)

(12) § 1.41525 D. The proposed rule is revised to limit the kinds of criminal offenses which must be reported to those which are essential in determining whether the licensee's fitness to hold a real estate license. The revision eliminates the obligation to report minor offenses or offenses which are unrelated to a licensee's integrity in representing buyers or sellers in real estate transactions. (See paragraph (10) of Exh. A.)

(13) § 1.41528 M. The revision clarifies that the rule does not apply where there is a bona fide commission dispute. (See paragraph (11) of Exh. A.)

(14) § 1.41528 O. The deleted language is repetitive of rule 1.41528 L.

(15) § 1.41550. The proposed interpretive rule is intended to clarify that certain activities do not

fall within the definition of "real estate broker" or "broker" (Minn. Stat. 82.17, Subd. 4 (b) (1980)). The rule was deemed necessary to clarify that the statutory language "negotiates or offers or attempts to negotiate a loan" does not refer to loan-making activities.

The proposed rule is revised to include not only loan-making activities but also loan selling and servicing activities, which the agency also believes are clearly outside the intent of the law. As noted in the Statement of Need and Reasonableness (p.24), due to the difficulty in formulating a definition and in order not to create an "exemption" which is overly broad, the agency limited the proposed rule and has drafted the revision to be limited to entities whose activities are otherwise regulated by various federal agencies or instrumentalities (See Exhibits B and C.)

State of Minnesota
Department of Commerce
Securities & Real Estate Division

August 30, 1982

Mary Alice Brophy

Mary Alice Brophy
Commissioner of Securities & Real Estate

REALTOR®

STATE OF MINNESOTA
AUG 13 1982
DEPARTMENT OF COMMERCE

MINNESOTA ASS

EXHIBIT A
TO FINDINGS OF FACT
AND CONCLUSIONS

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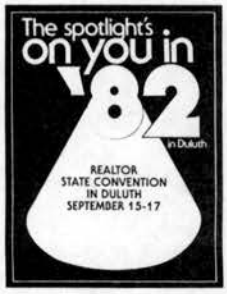

August 12, 1982

Mr. Dan Hardy
Assistant to the Commissioner
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101

RE: Commissioner's Proposed Real Estate Rules (State Register- June 28, 1982)

Dear Mr. Hardy:

Pursuant to our discussions of last month, I am writing to summarize our recommendations with regard to the above-captioned rules.

(1) Page 1, line 26 after the first and second "purchaser", add "or seller";

We recommend this change so that it is clear that a licensed real estate Broker or salesperson acting on behalf of either the purchaser or seller falls outside the loan Broker definition as is the clear intent.

(2) Page 3, line 12, delete "three" and insert "six";

We recommend this change so that adequate time may pass before a licensee's deposit is forfeited. We understand that current agency policy is to refund overpayments of which the Commissioner is aware.

(3) Pages 10 and 11, lines 35-36 and 1-2. Delete the bold face notice and substitute the following notice (in bold face): "the commission rate for the sale, lease, rental or management of real property shall be determined between each individual Broker and its client";

We recommend this change so that we follow the permanent injunction that remains in force as a result of the Forbes Case, since real estate licensees are subject to the language of this injunction, in any event.

(4) Page 12, line 31, delete "aware that" and insert "put on notice by"; lines 32 and 33, delete "is clearly unwilling or unable to" and insert "that the party will not"; line 34, after "similar" add "written"; after agreement add "to

convey real estate"; line 35, delete "unwillingness or" and insert "intent not to";

Page 13, line 1, delete "inability"; line 2, delete everything after "transaction"; delete lines 3 and 4; line 5, delete "transaction"; line 6, delete "is unable or unwilling to" and insert "will not"; line 7, delete "intention" and insert "obligation"; line 8, after "disclosure." insert "The obligation required by this rule shall not apply to notice of a party's inability to meet or fulfill any contingency to which the real estate transaction has been made subject";

We recommend this change so that a licensee more clearly knows when his duty to inform the other party of non-performance is triggered. As originally drafted, we felt the duty and when it arose was unclear and could place a licensee in a confusing position. We recommend more clear language so that a licensee does not have to guess when the duty to inform the other party of non-performance arises. Loyalties are owed first to the retaining party and to compromise relationship that unnecessarily is not in the best interest of the consumer or the licensee.

(5) Page 13, line 11, delete "or project or permit" and insert "affirmatively" before "encourage"; Page 13, line 12, delete "or project"; Page 13, line 14, delete "or projection";

We recommend this change because there is significant difference between guaranteeing future profits and projecting future profits. Most commercial transactions involve the submission of data which constitutes projections, not guarantees. To require that projections of future profits or earnings are contained in contracts, purchase agreements, instrument of sale, etc. is clearly burdensome and unnecessary. We do agree, in order to protect consumers, that where guarantees of future profits or earnings are made that these should be fully disclosed and contained in the relevant documents. With regard to deleting projections, we make this recommendation also because the type of buyer involved in a commercial transaction generally has a higher level of knowledge than the typical buyer involved in a residential transaction.

(6) Page 13, line 19, add "written" before "offers";

We recommended this change based on your understanding that this was a transposition of the word written.

(7) Page 13, line 28, delete "and the approximate amount of these costs" and insert "which may effectively reduce the proceeds from the sale or increase the cash outlay at closing."

We recommend this change to make it clear that the licensee is not being required to make estimates based on figures that are not available upon which the buyer or seller would unreasonably rely. Our recommended change recognizes the fact that buyers and sellers should be made aware that; (a) they may be subject to closing costs and

(b) that these closing costs may reduce the proceeds from the sale (seller) or may increase the cash outlay at closing (buyer). We believe this is the intended purpose of this rule, again aimed at eliminating surprise on the part of buyers or sellers at closing.

(8) Page 14, line 35, delete "for any reason"; line 36, after "transaction", insert "through no fault of the purchaser."; Page 15, delete lines 3 and 4;

We recommend this change to show that this rule does not apply when the transaction has not been completed due to fault on the part of the purchaser. This would make it clear that through proper procedure, the listing Broker would not be per se foreclosed from claiming any portion of trust funds deposited with the Broker by the purchaser.

(9) Page 15, line 12, after "final" add "adverse"; line 16, after "funds" add ", if the final adverse decision relates to the allegations of fraud, misrepresentation or the conversion of funds.";

We recommended this change so that licensees need only report when an adverse decision is rendered by a court which relates to allegations of fraud and misrepresentation or conversion of funds. This will ensure that a licensee will not be required to notify the Commissioner where he or she has been partied into a lawsuit because of having insurance or a "deep pocket" where fraud may be alleged to justify punitive damages. We have no problem and agree that where civil adjudications are reached which allege fraud and misrepresentation or the conversion of funds, that the Commissioner should be notified.

(10) Page 15, delete lines 24 and 25 and insert "charge of any felony, or of any gross misdemeanor alleging fraud, misrepresentation, conversion of funds, or a similar violation of any real estate licensing law."

Though we still question the requirement that the Commissioner be notified with regard to a charge as opposed to an adjudication, we do recommend that the type of charge be limited to felony or any gross misdemeanor alleging fraud, misrepresentation, conversion of funds or similar violation of any real estate licensing law. This will relieve a burden to licensees and the Commissioner of receiving and notifying regarding minor offenses and offenses unrelated to integrity in the transaction of real estate business.

(11) Page 17, line 16, after "entitled" add "knowing that he or she is not entitled thereto". The way the existing rule and this proposed rule are written, it begs the question of whether or not a commission is due to a licensee. This language makes it more clear that only where the licensee actually knows that he or she is not entitled to a commission that they may not demand the same from a seller. I believe this language better achieves the intent which is that a licensee should only pursue a commission in good faith.

(12) Page 17, lines 3 through 6. Although we are not recommending change here, we do have concern as to the interpretation of the words "permit or allow" regarding the licensees duty relating to material misrepresentation and false or misleading statements.

(13) Page 12, line 6, add the word "general" after completely;

We recommend this change so that it is clear that a Broker does not have to send out a guaranteed sale expert to figure each and every home that is listed by the Broker. This is an unreasonable burden. The word "general" makes it clear that they must outline the general terms and conditions of the program itself, but not as it relates to the specific home. These terms and conditions are impossible to determine until the time at which a specific agreement is struck between buyer and seller.

(14) We also asked that you consider changes regarding dual licenses found at Page 4 and after line 13. This change basically grants the Commissioner discretion to waive the requirement of substantial ownership interest where the Broker, applying for the additional license, "is an officer of a corporation for on whose behalf he or she already holds a license and the Broker is applying for the additional license or licenses for or on behalf of an affiliate of the corporation of which he is also an officer." This makes allowance for a legitimate request of an additional Broker's license where the additional license is requested by one who does not have a substantial ownership interest. This will allow the Commissioner to make exceptions for those situations which fall outside the intended scope of this rule.

We make these recommendations in good faith and believe the changes make the intent of the rules clearer and generally improve their substance. I thank you for your consideration in this matter.

Sincerely,

Thomas D. Driscoll

Thomas D. Driscoll
Executive Vice President

TDD/bdb

EXHIBIT B
TO FINDINGS OF FACT
AND CONCLUSIONS

GRAY, PLANT, MOOTY, MOOTY & BENN

A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

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OF COUNSEL
ROBERT L. HELLAND
ROBERT A. STEIN

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•• ADMITTED IN ARIZONA
••• ADMITTED IN ARIZONA AND MINNESOTA
ALL OTHERS ADMITTED IN MINNESOTA

REPLY TO Minneapolis OFFICE

DIRECT DIAL (612) 343-2926

July 28, 1982

State of Minnesota
3:29 pm
JUL 28 1982
Department of Commerce

Mr. Daniel W. Hardy
Assistant to the Commissioner
Securities and Real Estate Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

ACTION MESSENGER

Re: Proposed Adoption, Amendment and Repeal of Rules and Forms of the State Securities and Real Estate Division Governing Real Estate Brokers and Salespersons
Dated June 11, 1982
Published June 28, 1982 (6 S.R. 2369)

Dear Mr. Hardy:

This letter is written to comment upon and propose a modification to the above-referenced proposed rules. It is our belief that the modification included herewith constitutes a clarification of the proposed rules and does not result in a substantial change in the proposed language.

As we discussed during our recent telephone conversations, my comments bear upon the rule proposed as 4 MCAR § 1.41550 "approved lender is not a broker," which provides as follows:

> The definition of "real estate broker" or "broker" set forth in Minn. Stat. § 82.17, subd. 4, clause (b) shall not apply to the making of a loan in connection with his or her ordinary business activities by a mortgagee or lender approved or certified by the secretary of housing and urban

> development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association.

It is our understanding that the above-quoted rule is intended to clarify that the definition of "real estate broker" or "broker" set forth in Minnesota Statutes § 82.17, subd. 4, clause (b) (and the resultant licensure requirement) does not apply to the origination of loans by the described federally "approved or certified" lenders in the course of such a lender's ordinary business activities. It is our further understanding that, pursuant to the final enactment of 4 MCAR § 1.41550, licensure under Chapter 82 of the Minnesota Statutes is not required where such an "approved or certified" lender makes loans in the course of its ordinary business activities with a plan to "sell" such a loan, either directly or indirectly in the secondary mortgage market or through mortgage backed securities, whether such a plan of disposition exists prior to loan origination or not.

Our comment and modification apply to activities in servicing loans originated by another lender. Our concern lies in an interpretation of Minnesota Statutes § 82.17, subd. 4, clause (b), and the rules proposed as 4 MCAR § 1.41500(b) and 4 MCAR § 1.41514, which would require licensure when the servicing functions provided to other lenders surpass undetermined administrative levels. This concern is in part based upon the imprecise general understanding of the activities included in the term "loan servicing." For example, it would appear that no license is required under Minnesota Statutes Chapter 82 where a FNMA approved seller/servicer collects and administers payments on loans originated and held by another lender; however, such a conclusion is not as clear when the loan servicing functions which are provided include distribution and administration of loan applications, application of specified lending guidelines and parameters to loan applications, disbursement of loan proceeds or representation at the making of the loan, and other functions not infrequently provided by loan servicing entities. The purpose of our proposed modification is to resolve any uncertainty on the issue of whether federally "approved or certified" loan servicing entities must be licensed under Chapter 82 of the Minnesota Statutes.

We propose and recommend for adoption modifications to proposed rule 4 MCAR § 1.41550 which clarify that loan servicing activities by a federally "approved or certified" servicer do not require licensure under Chapter 82 of the Minnesota Statutes. The dominant rationale for this proposal is identical to that underlying the rule currently set forth in proposed 4 MCAR § 1.41550: mortgagees, lenders and seller/servicers which are approved or certified by the federal agencies or instrumentalities therein cited (HUD, VA, FaHA, FHLMC, or FNMA) are suitably regulated at the federal level and further duplicate licensure and regulation under Chapter 82 of the Minnesota Statutes is unnecessary.

With such licensure and regulation already in existence, it would appear unnecessary and unwise to attempt to define certain loan servicing activities as falling within the loan making activities for which license is required under Chapter 82 of the Minnesota Statutes. No licensure is apparently necessary for a loan servicing agent which provides purely administrative functions, but at some level of involvement a loan servicing agent may engage in activities which could be construed as directly or indirectly involved in the negotiation of a loan secured by real estate on behalf of the lender. Some unanticipated and questionable consequences arguably arise under such an interpretation. For example, under proposed 4 MCAR § 1.41550, a FNMA approved seller/servicer would not require licensure for loans which it makes. However, that same FNMA seller/servicer would arguably require licensure for loans which it did not make, if the broad administrative functions it provides the mortgagee or lender could be characterized as "directly or indirectly negotiat(ing) or offer(ing) or attempt(ing) to negotiate a loan" under Minnesota Statutes § 82.17, subd. 4, clause (b).

Accordingly, we propose the following modifications to proposed rule 4 MCAR § 1.41550:

> Approved lender is not a broker. The definition of "real estate broker" or "broker" set forth in Minnesota Statutes § 82.17, subd. 4, clause (b) shall not apply to the originating, making, selling or servicing of a loan in connection with his or her ordinary business activities by a mortgagee, ~~or~~ lender, or servicer approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veteran's affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association.

Please feel free to contact me at the telephone number set forth above if I can be of any assistance to you regarding the proposed modification.

Please advise me of the submission to the Attorney General of the materials specified in the notice dated June 11, 1982. I would also appreciate a copy of the final rules as proposed for adoption should there be any change from the proposed rules published at 6 State Register 2369, et seq.

Very truly yours,

GRAY, PLANT, MOOTY, MOOTY & BENNETT

By Thomas R. Wilhelmy
Thomas R. Wilhelmy

EXHIBIT C
TO FINDINGS OF FACT
AND CONCLUSIONS

GRAY, PLANT, MOOTY, MOOTY & BENN

A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

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STATE OF

AUG 17 1982

DEPARTMENT OF COMMERCE

REPLY TO Minneapolis OFFICE

DIRECT DIAL (612) 343-2926

August 16, 1982

Mr. Daniel W. Hardy
Assistant to the Commissioner
Securities and Real Estate Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

Re: Proposed Adoption, Amendment and Repeal of Rules and Forms of the State Securities and Real Estate Division Governing Real Estate Brokers and Salespersons
Dated: June 11, 1982
Published: June 28, 1982 (6 S.R. 2369)

Dear Mr. Hardy:

This letter is written to supplement the written comment and proposed modification contained in my letter to you of July 28, 1982. Based upon our further deliberations and our discussions with prominent representatives of the lending community in Minnesota, we hereby propose that our modifications to proposed Regulation § 1.41550 be further amended to the following result:

> Approved lender is not a broker. The definition of "real estate broker" or "broker" set forth in Minnesota Statutes § 82.17, subd. 4, clause (b) shall not apply to the originating, processing, making, selling or servicing of a loan in connection with his or her ordinary business activities

> by a mortgagee, ~~or~~ lender, or servicer approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veteran's affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association.

It is our belief that this amendment to our earlier modification to proposed § 1.41550 clarifies the proposal made in our previous letter and is otherwise in furtherance of the policy determinations underlying the regulations proposed by the Commissioner of Securities and Real Estate on June 28, 1982, as we have previously discussed.

Very truly yours,

GRAY, PLANT, MOOTY, MOOTY & BENNETT

By Thomas R. Wilhelmy
Thomas R. Wilhelmy

TRW:mbp

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
COMMISSIONER OF SECURITIES AND REAL ESTATE

In the Matter of the Proposed Adoption, Repeal and Amendment of Rules and Forms Relating to Minnesota Statutes Chapter 82 (Real Estate Brokers and Salespersons)

STATEMENT OF NEED AND REASONABLENESS

Commissioner of Securities and Real Estate Mary Alice Brophy ("Commissioner") presents herein her statement of the need for and reasonableness of the adoption of proposed rules and forms and the amendment and repeal of existing rules and forms relating to Minn. Stat. ch. 82 (1980 and Supp. 1981), as amended, Minn. Laws 1982 ch. 478 (Real Estate Brokers and Salespersons).

The above-captioned rules and forms are new rules and amendments to existing rules and forms. The existing rules and forms were last amended on June 16, 1978. On April 28, 1980 the Division caused to be published at 4 State Register 1720 a notice of intent to solicit outside opinions concerning changes to these rules and forms.

The general statutory authority to promulgate rules under Minn. Stat. ch. 82 is set forth at Minn. Stat. Section 82.28 (1980). Where specific statutory authority is relied upon, it will be so noted.

The Commissioner has determined that the proposed adoption, repeal or amendment of these rules and forms is reasonably necessary to carry out and make effective the provisions and purposes of Minn. Stat. ch. 82 (1980 and Supp. 1981), as amended, Minn. Laws 1982 ch. 478.

The need for and reasonableness of each of the proposed rules and amendments to existing rules is as follows:

4 MCAR Section 1.41500 (Definitions)

Paragraphs A, B and C -technical and stylistic changes to clarify the language of the existing rule (hereinafter "technical change").

Paragraph D - definition of "loan broker", see discussion under Section 1.41514 below ("Loan brokers. Standards of Conduct.").

Paragraph E - Clarifies, especially for purposes of proposed Rule 1.41516 A. concerning supervision of salespersons and employees, what is meant by "primary broker".

Paragraph F - definition of "overpayment" currently found at Section 1.41501. It is transferred to the definition section of the rules for purposes of uniformity. The reference to payment of an examination fee is deleted because the agency no longer conducts the licensing examination.

Paragraphs G, H, I and J - technical changes.

Paragraph K - definition of "rental service", see discussion under Section 1.41527 ("Rental services").

Paragraph L - "School" is defined for purposes of the rules relating to real estate education (1.41529 -1.41548).

4 MCAR Section 1.41501

A. Fees are required to be paid by means of check or money order for security and recordkeeping purposes.

B. The definition of "overpayment" has been deleted here and inserted at 1.41500 E. Minn. Stat. Section 82.21, Subd. 2 (1980) states that fees are nonreturnable, "except that an overpayment of any fee shall be the subject of a refund upon proper application." The revised rule requires, for agency bookkeeping purposes, that an "application" or request for a refund of an overpayment of a fee be received within three months. The proposed rule is intended to

encourage licensees and applicants to diligently request a refund, thereby avoiding possible confusion and the uncertainty which often results from the passage of time.

4 MCAR Section 1.41502

The revised rule clarifies that a passing grade for the salesperson's and broker's examinations requires a score of 75% or higher on both the uniform portion and the state portion of the examinations.

A provision is added requiring the Commissioner to reject the examination results of a person who has cheated on the examination and allowing the Commissioner to deny the license application of such a person. (Minn. Stat. Section 82.27, Subd. 1(b) (1980)).

4 MCAR Section 1.41503

Paragraph A - A provision is added to establish and clarify the circumstances under which a broker may hold more than one broker's license. The intent of the provision is to address situations where a corporation or franchisee intending to engage in real estate transactions requiring a broker's license may in effect attempt to "buy" a broker's license. The licensee acts as a broker in name only, does not participate in the real estate activities of the corporaion and does not supervise the corporation's salespersons, as required by Minn. Stat. Section 82.20, Subd. 5 (1980).

Paragraph B - Changes are made for purposes of clarification only.

Paragraph C. 1. and 2. - Changes are made for purposes of clarification only.

Paragraph C. 3. - The intent of the proposal is to encourage applicants for the broker's examination who have been granted a waiver of the real estate experience requirement to diligently pursue licensure. A waiver which has lapsed due to the passage of time will, upon receipt of

a renewal request, be reviewed according to the criteria set forth in C. 1. a. - c. in order to determine whether the applicant still qualifies for the waiver. The proposal parallels Rule 1.41529 B., which requires applicants for a salesperson's license to successfully complete the salesperson's examination within one year after completing Course I.

4 MCAR Section 1.41504 (Documents furnished to the parties to a real estate transaction.)

The rule is repealed and its provisions are incorporated into Rule 1.41523 D.

4 MCAR Section 1.41505

Paragraph A - Changes are made for purposes of clarification, and language defining "trust funds"is deleted as it duplicates existing statutory language (Minn. Stat. Section 82.17, Subd. 7 1980).

Paragraphs B and C - Changes are made for purposes of clarification only.

Paragraph D - The proposed language clarifies that funds which would otherwise be required to be placed in a trust account do not lose their status as trust funds simply because the licensee is acting as a principal in the transaction. However, to assist a licensee who is selling his/her own property, this requirement can be waived if all parties agree in writing to a different disposition of the funds. The agreement permitting the different disposition of the funds must, however, state for the benefit of the non-licensee party that the funds would, absent the agreement, be placed in a real estate trust account.

4 MCAR Sections 1.41506 and 1.41507

No change.

4 MCAR Section 1.41508 (fraudulent,deceptive or dishonest practices) and Section 1.41509 (standards of conduct)are repealed and their provisions are addressed elsewhere in these rules as shown in the following table:

Section 1.41508	Section 1.41509
A.1.(New Rule 1.41528)	A.1.a. (New Rule 1.41519 B.1.)
A.2. (1.41528 A.9.)	A.1.b. (141521 A.)
A.3. (1.41528 A. 8 & 9)	A.1.c. (1.41518)
A.4. (1.41528)	A.1.d. (1.41518 & 1.41521 A.)
A.5. (1.41528)	A.1.e. (1.41528)
A.6. (1.41528)	A.1.f. (1.41519 D)
A.7. (1.41528)	A.1.g. (1.41519 D)
A.8. (1.41525 D)	A.1.h. (1.41519 E)
A.9. (1.41528)	A.1.i. (1.41521 B)
A.10.(1.41528)	A.1.j. (1.41516 A)
A.11.(1.41524 B)	A.1.k. (1.41521 B.)
A.12.(1.41528)	A.1.l. (1.41522)
A.13 (1.41528)	A.1.m. (1.41519 B)
A.14 (1.41528)	A.1.n. (1.41523 F)
A.15 (1.41528)	A.1.o. (1.41523 G)
A.16 (1.41528)	A.1.p. (1.41519 A)
A.17 (1.41521 C)	A.1.q. (1.41523 A)
A.18 (1.41525 A)	

4 MCAR Section 1.41510

No change

4 MCAR Sections 1.41511 and 1.41512

Repealed. The proposed Real Estate Education and Continuing Education rules are set out at Sections 1.41529-1.41548.

The forms following existing rule 1.41511 are repealed. Proposed new forms are set forth at Rules 1.41553 - 1.41562 following the proposed rules.

4 MCAR Section 1.41513

No change

4 MCAR Section 1.41514 Loan Brokers; Standards of Conduct (Minn. Stat. Secton 82.27, Subd. 2 (1980)). The proposed rule establishes standards of conduct for real estate brokers and salespersons when they act as loan brokers, as defined at Section 1.41500D, or hold themselves out as such. The agency has in recent years received numerous citizen complaints in connection with advance fee operations wherein promoters obtain substantial amounts of money from prospective borrowers on the promise that they will secure or attempt to secure a loan for them. All too often the loan never materializes. Such cases demonstrate the need for careful regulation of individuals in the loan brokerage business. As a Pennyslvania Crime Commission report concluded, "it is probable that advance fee schemes will become even more prevalent in light of recent economic developments which have resulted in a tightening of credit throughout the nation." Exhibit A, "Racketeering in the Commercial Loan Brokerage Industry", at 73. The proposed standards of conduct are patterned after several of the Commission's "Recommendations for for Legislation". Exhibit A at 77. The agency adopts the Commission's conclusions, which are incorporated herein by reference.

4 MCAR Section 1.41515

Corresponds to existing rule 1.41509.

4 MCAR Section 1.41516

Minn. Stat. Section 82.20, Subdivision 5 (1980) imposes responsibility upon a broker for the actions of salespersons acting on his behalf. Section 82.27, Subd. 1(d) makes the broker's failure to supervise his or her salespersons or employees grounds for disciplinary action against the broker's real estate license. The proposed rule enumerates five specific areas of broker responsibility and supervision. Supervision of agents is central not only to

the real estate licensing law but to the law of agency in general. It is assumed that a broker is more knowledgeable and experienced in real estate matters than are his salespersons. The intent of the rule is to attempt to assure that the consumer is competently represented, that legal documents are properly drafted and safeguarded, that information regarding listings is conveyed only by qualified individuals, and that trust account books and records are properly maintained.

4 MCAR Section 1.41517

A rule is created which allows the commissioner to issue a temporary broker's permit. Under existing rules, in the event of the death or incapacity of a broker, all real estate activities within that broker's office or company must cease. This often causes hardship and confusion for both consumers and licensees. The rule would allow a salesperson who has been licensed for two years (see Minn. Stat. Section 82.22, subd. 2(b)) and who is otherwise reasonably qualified to act as a broker to assume the responsibilities of a broker while preparing to take the broker's examination. The temporary permit would be renewable once if the applicant can demonstrate that the extension is not harmful to the public interest and that he or she has made a good faith effort to obtain a broker's license within the preceding 45 days.

4 MCAR Section 1.41518

The proposed rule is intended to clarify that a salesperson may conduct business only under the name of the broker on whose behalf the salesperson is licensed to act pursuant to Minn. Stat. Section 82.20, Subdivision 6 (1980). The rule corresponds to existing Rule 1.41509A.1. c. and d.

4 MCAR Sections 1.41519A.

A. Expands existing rule 1.41509 A. 1 m. and p. by requiring licensees to obtain the written consent of the owner of real property prior to advertising the property for sale or lease. Requiring that the consent be in the form of a written listing agreement protects both the seller and the licensee in the event of a subsequent dispute.

B.1.-6. Sets forth certain basic terms which must be included in the listing agreement, which are considered essential to a clear understanding on the part of licensees and consumers of their respective rights and obligations under the listing agreement.

B.7. The requirement that a boldface notice regarding the amount or rate of real estate commissions or fees be inserted in the listing agreement is intended to alert consumers to the fact that commissions may not be fixed by agreement between competing real estate firms or companies (Minnesota Anti-trust Law of 1971, Minn. Stat. Sections 325D.49 to 325D.66). This rule does not prohibit a real estate company or firm from establishing a fixed fee or commission for its services.

C. Corresponds to existing Rule 1.41509A.1 f. and g.

D. Corresponds to existing Rule 1.41509A. 1 (h). Clarifies that a licensee may not enforce an override clause if he has failed to provide the seller with a written protective list within 72 hours following the expiration of the listing agreement.

E. The proposed rule is intended to clarify, with respect to the definition of "protective list," (Rule 1.41500 I.),the phrase "prospective purchasers with whom a licensee has negotiated the sale or rental of the property or to whom a licensee exhibited the property prior to the expiration of the listing agreement" (emphasis added). An override clause in a listing agreement recognizes that a salesperson's or broker's efforts during the term of the listing agreement to obtain a prospective purchaser or

lessee of the property in question may not result in a purchaser who is ready, willing and able to buy or lease until some time after the listing agreement has expired. The purpose of this rule, however, is to limit the names on the protective list to those individuals whose subsequent interest in the property can reasonably be attributed to the actions of the licensee during the term of the listing agreement.

The boldface notice is intended to warn sellers that they may be liable for two commissions should they re-list the property during a period covered by the override clause of an expired listing agreement. (See August 20, 1981 letter of Alice Lietzen, Executive Secretary, Crow River Board of Realtors, attached hereto as Exbibit B.)

4 MCAR Sections 1.41520

The proposed rule requires full disclosure to a prospective seller concerning the terms of any guaranteed sales program. The availability of such a program is often an important factor in deciding whether or not to list with a particular real estate company or firm, especially in a depressed market or when an individual must sell by a certain date. Guarantee programs may, however, be limited only to very saleable properties, may guarantee the sale at a price below market value, or may fail to disclose the lowest net proceeds payable to the seller or that the seller will not share in any profit resulting from the ultimate sale of the property, factors which are crucial in order for a seller to make an informed and intelligent decision regarding the selection of a listing broker.

4 MCAR Sections 1.41521

A. Corresponds to existing Rule 1.41509A.1. b. and d.

B. Expands existing Rule 1.41509A.1.i. by requiring a licensee to notify an owner that the licensee is a broker or salesperson, and in what capacity the licensee is acting, in

a situation where the licensee purchases or intends to purchase the owner's property, regardless of whether the property was listed with the licensee's firm or company.

Because licensees are generally more experienced and knowledgeable in real estate matters than the average consumer, awareness of this experience and of the capacity in which the licensee is acting may assist the owner in making an informed decision concerning the sale of his property.

C. Corresponds to existing Rule 1.41508 A.17.

D. The failure of a party to a real estate transaction to perform in accordance with the terms of a purchase agreement often significantly inconveniences or results in severe financial hardship to the other party to the transaction (e.g., the seller often makes a commitment to purchase other property in reliance upon the consummation of the first transaction, or the buyer ceases to pursue an opportunity to acquire different but equally suitable property.) Also, one party's refusal or inability to perform with respect to one agreement may also affect parties to other separate but interrelated transactions.

4 MCAR Sections 1.41522 Corresponds to existing Rule 1.41509 A.1.l.

4 MCAR Section 1.41523

Paragraph A. Corresponds to existing Rule 1.41509 A.1.q.

Paragraph B. This rule should be read in conjunction with paragraph A. above. It addresses a situation where a listing agent who has received an offer to purchase delays presenting the offer to the owner in order to convey the terms of the offer to his own client or another client of his company or firm, who may then make an offer which is only nominally higher. The duty of the listing agent, as a

fiduciary, is to the owner of the property. In the situation set forth above, the listing agent has put his own interests before those of his principal.

Paragraph C. Intended to alert buyers and sellers to the fact that potentially significant closing costs may be involved in a real estate transaction. Advance notice of such costs may influence the terms of an offer.

Paragraph D. Corresponds to existing Rule 1.41504 A., with the addition of truth-in-housing forms and energy audits. (Minn. Stat. Section 82.23, Subd. 2 (1980)).

Paragraph E. Requires a licensee to make a complete accounting to the buyer and seller at the time of closing, which acts as a check on the licensee and provides the parties to the transaction with a written record for tax and other purposes.

Paragraph F. Corresponds to existing Rule 1.41509 A.1.n.

A provision is added requiring a licensee to inquire whether the owner or lessor has entered into an exclusive agency (listing) agreement with another licensee. An owner or lessor who has executed an exclusive agency (listing) agreement has agreed to pay a fee or commission in exchange for the advice and efforts of a licensee, who should properly be consulted regarding any offers to purchase or lease. In addition, the rule may also have the effect of causing the owner or lessor to carefully consider his obligations under the agreement. The rule also protects the rights of the licensee who was a party to the exclusive agency (listing) agreement.

Paragraph G. Corresponds to existing Rule 1.41509 A.1.o. Owners of real estate, especially unsophisticated owners, may reasonably be expected to rely upon the advice of licensees who are or should be more knowledgeable concerning real estate related matters. A licensed broker or salesperson should not advise an owner or other party to breach any legally binding contract or agreement. The

licensee is not trained in the law and may be unaware of the possible consequences of such action to himself and to the breaching party.

Paragraph H. A buyer or seller should fully understand the extent of potential rights and obligations resulting from the purchase or sale of real estate and should not be discouraged from seeking legal advice regarding such rights and obligations.

4 MCAR Section 1.41524

Paragraph A. A broker is responsible for the actions of his salespersons. The requirement that salespersons receive compensation only from their brokers is intended to alert brokers to the transactions in which their agents are involved.

Paragraph B. Corresponds to existing Rule 1.41508 A.11.

Paragraph C. Reiterates that trust funds may be disbursed only in connection with a proper accounting to the parties to a transaction. (See proposed Rule 1.41505 B.)

4 MCAR Section 1.41525

Paragraph A. Corresponds to existing Rule 1.41508 A.18.

For the purpose of clarity the period within which the Commissioner must be notified of changes to the information contained in the license application is changed from a "reasonable time" to "within ten days of the change."

Paragraphs B, C and D. The information required to be submitted to the Commissioner concerning civil, criminal or administrative actions against the licensee is necessary in order to determine whether grounds exist for the suspension or revocation of his or her real estate license pursuant to Minn. Stat. Section 82.27, Subd. 1. (1980).

4 MCAR Section 1.41526

The requirement that brokers make the real estate licensing law and rules available to their salespersons is necessary in order to assist licensees in complying with the law. The agency has often been informed by licensees, in the course of investigating alleged improper conduct,that they were unaware of duties and obligations imposed upon them by the law and rules.

4 MCAR Section 1.41527

The proposed rule establishes standards of conduct for licensees when acting as a "rental service", as defined at proposed Rule 1.41500J. The definition conforms to a determination by the Minnesota Supreme Court that such activities require a real estate broker's license (State v. Beslanowitch, 248 N.W. 2d 286 (1976) (Exhibit C)).

Paragraph B. The agency has received complaints from landlords concerning rental services which contact the landlord, without identifying themselves, and make inquiries regarding the landlord's rental property. This information is later disseminated to clients of the rental service without the permission of the landlord.

Paragraphs C. and D. The agency has also received complaints from tenants that rental services have represented or advertised that particular units were available for rent when in fact the units had been leased for some time. The purpose of paragraphs C and D is to prevent rental services from promoting their services by means of misleading advertising or unverified representations.

4 MCAR Section 1.41528

A. Corresponds to existing Rule 1.41508 A.4.

B. Corresponds to existing Rule 1.41509 A.1.k.

C. Clarifies that trust funds received by a licensee acting as a principal in a real estate transaction are subject to the trust account requirements of Minn. Stat. Section 82.24, Subd. 1 (1980).

D. Corresponds to existing Rule 1.41508 A.15

E. Corresponds to existing Rule 1.41508 A.7.

F. Corresponds to existing Rule 1.41508 A.14

G. Corresponds to existing Rule 1.41509 A.1.e.

H. Corresponds to existing Rule 1.41508 A.13.

I. Corresponds to existing Rule 1.41508 A.1.

J. Corresponds to existing Rules 1.41508 A.2.

K. Corresponds to existing Rule 1.41508 A.5.

L. Corresponds to existing Rule 1.41508 A.6.

M. Corresponds to existing Rule 1.41508 A.9.

N. Corresponds to existing Rule 1.41508 A.10.

O. Corresponds to existing Rule 1.41508 A.12.

P. A provision is added which makes anticompetitive real estate activity a fraudulent, deceptive or dishonest practice. Such activity is inherently harmful to consumers and should constitute grounds for license suspension or revocation or for censure of the licensee. Anticompetive real estate activity is defined to include a violation of the Minnesota Antitrust Law of 1971.

RULES RELATING TO REAL ESTATE EDUCATION

(4 MCAR SECTIONS 1.41529 to 1.41548)

4 MCAR Section 1.41529

Paragraph A. Corresponds to existing Rule 1.41511 A.1.a.

Paragraph B. The requirement that applicants complete the salesperson's examination within a year of completing Course I corresponds to existing Rule 1.41511 A.1.b. An

exception is created for students pursuing a course of study in a two or four-year real estate education program who choose not to take the examination until after the completion of their course of study.

Paragraph C. The licensing statute (Section 82.22, Subd. 5) requires applicants for a real estate license to apply for the license within one year after successfully completing the examination.

To encourage applicants to diligently pursue licensure after taking the examination, a provision is added requiring the applicant to re-take Course I if he/she has failed to apply for a license within one year after taking the examination. The intent of pre-licensing real estate education is to assure that newly licensed individuals are at least minimally competent to serve the public. However, knowledge which is not reinforced by practical experience is soon forgotten. Under paragraph B of this rule, a prospective licensee is allowed to wait one year from the completion of Course I before he or she must complete the salesperson's examination. Paragraph C permits the prospective licensee to wait an additional year after successfully completing the salesperson's examination before applying for a license.

In the opinion of the Commissioner the likelihood of potential harm to the public is sufficient enough to warrant requiring not only reexamination of such applicants but also that they first repeat the initial 30 hour course of education.

Paragraph D. Corresponds to existing Rule 1.41511 A.1.b.

Paragraph E. Corresponds to existing Rule 1.41511A.1.b (fourth sentence) and clarifies the circumstances under which an applicant may receive credit for Course II and III prior to licensure.

Paragraph F. A provision is added regarding substituted course offerings. The rule clarifies that no course may be substituted for Course I. It allows a licensee engaged exclusively in a specialized area of real estate to substitute, upon written request, specialized courses for Courses II and III. The rule also permits the licensee, with respect to Courses II and III,to take substantially similar courses offered in other jurisdictions. Without this provision many licensees who engage exclusively in specialized areas of real estate would be forced to take courses which are of less benefit to them than the substituted courses.

Paragraph G. Existing Rule 1.41512 A. allows licensees to take pre-licensing Course I and post-licensing Course II and III for continuing education credit if the licensee has not previously received continuing education credit for the course. The proposed rule disallows continuing education credit for Courses I and II but continues to allow credit for Course III unless the licensee has previously taken a particular Course III for either post-licensing or continuing education credit.

The proposed outlines for Courses I and II are more specific and detailed than the existing outlines (see paragraphs J. and K. of this proposed rule.) A licensee will benefit little from repeating introductory courses designed to merely touch upon basic concepts.

Course III, however, as re-structured, consists of 9 separate 30 hour courses, each devoted to a specific topic (see paragraph L. of this rule.) A licensee who has, for instance, satisfied his or her final 30 hours of post-licensing education by taking a course in real estate law can also benefit from taking one of the other 8 courses for continuing education credit. In addition, many licensees prefer to take a more comprehensive course in an area of real estate in which they have a limited understanding or in which they would like to specialize.

Paragraph H. It is considered essential that the basic real estate education provided by Courses I, II and III be supplemented by the use of an appropriate textbook rather than limiting study to attendance at lectures. Corresponds to existing Rule 1.41511 E.

Paragraph I. Establishes criteria for determining what constitutes "successful completion" of Courses I, II and III, as required by Minn. Stat. Section 82.22, Subd. 6 (1980) and Paragraph A. of this rule. Corresponds to existing Rule 1.41511 G.

Paragraphs J., K., and L. Establish, pursuant to authority granted under Minn. Stat. Section 82.22, Subd.6 (c), a revised and detailed curriculumn for statutorily required pre-licensing and post-licensing real estate education courses (Courses I, II and III). The proposed curricula are the product of extensive deliberations by a panel of individuals, appointed by the Commissioner, who are involved in various aspects of real estate education. Detailed curricula are deemed necessary in order to assure a greater degree of consistency among the courses being offered to prospective licensees.

Courses I and II are designed to acquaint students with the broad range of laws, procedures and practices which will affect their activities as licensees and to act as the necessary foundation for subsequent education.

Course III is designed to provide a more comprehensive review of one or more specific areas in which a licensee wishes to specialize or about which he/she desires a better understanding. The Course III outlines also includes, for the first time, a set of objectives for each of the 9 separate Course III formats. The objectives are designed to provide further structure to courses and to demonstrate to students how acquired knowledge can be practically employed.

4 MCAR Section 1.41530 (Minn. Stat. Section 82.23, Subd. 13 (c) (1980)).

Paragraph A. Corresponds to existing Rule 1.41512 B.

Paragraph B. Clarifies that credit will not be granted for attendance at less than the entire continuing education offering.

Paragraph C. Intended to accommodate the state computer system, which does not record fractions of an hour.

Paragraph D. Existing Rule 1.41512 C. 4.b. does not require continuing education courses to include examinations. The proposed rule allows the school offering the course to elect to require an examination if it determines, for example, that an examination is a desirable educational tool. Course III, however, is designed to include an examination, which must be taken even by licensees who have enrolled for continuing education credit.

Paragraph E. The use of a course syllabus is generally considered a beneficial educational tool.

Paragraph F. Corresponds in part to existing Rule 1.41512 I. Instructors are currently given 10 hours of continuing education credit for each hour of instruction when they initially teach a course and two hours of credit for each hour taught if a course is repeated. The proposal would allow three hours of continuing education credit for each hour of instruction only when the course is initially taught. The agency believes that the reduction in what is essentially an allowance for preparation time is reasonable in that it encourages licensee-instructors to attend courses in areas in which they are not experts. The current rule would allow a licensee to satisfy his/her 45 hour continuing education requirement by teaching only 4 1/2 hours of continuing education. The proposed rule also amends existing Rule 1.41512 H. by stating that a licensee may only earn credit once for any course.

Paragraph G. Corresponds to existing Rule 1.41512 B. 1.-5. The proposal would allow the Commissioner to disapprove courses designed to prepare students for passing any licensing examination. The agency has in the past received requests for real estate continuing education approval for courses designed to prepare students for the securities license examination. Although they may, in part, touch on certain real estate related topics, preparatory courses are not generally designed to impart substantive knowledge of real estate to licensed salespersons and brokers. Also, the proposed rule is consistent with proposed Rule 1.41529 G., which states that continuing education credit will not be given for Courses I and II.

Paragraph H. This paragraph is necessary, due to the attendance and examination provisions of Paragraphs B. and D., in order to clarify that:

1. a licensee need not take an entire "combination" Course III in order to receive continuing education credit as long as he/she takes a complete segment, and

2. he may not need to take the Course III exam in order to receive continuing education credit in certain circumstances.

4 MCAR Section 1.41532

Paragraph A. Corresponds to existing Rules 1.41511 A., 1.41511 B. 5 and F.

Paragraphs B. and C. Correspond to existing Rule 1.41511 J.2 and I., and 1.41512 E. and K. (See also proposed Rule 1.41543 with respect to advertising.)

Paragraph D. Corresponds to existing Rule 1.41511 H. and 1.41512 D. The requirement that applications for course approval be submitted at least 30 days prior to the offering of the course provides the agency with enough time to review the request, while affording the school an opportunity to cure possible deficiencies in the application.

Paragraph E. Corresponds to existing Rule 1.41511 H.7 and 1.41512 D.4. It is no longer deemed necessary to require schools, at the time of application, to notify the Comissioner of all subsequent course offerings.

4 MCAR Section 1.41533 The proposed rule is intended to complement Rule 1.41541 (conflict of interest). The availability of real estate education should not be affected by the ability of some brokers or franchises to subsidize a prospective salesperson's educational expenses.

4 MCAR Section 1.41534 Elaborates on existing Rule 1.41511 D. The proposed rule establishes for the first time specific criteria for approval as a course coordinator. The proposed criteria recognize individuals who qualify because of real estate experience, experience in administering an educational program, or because of a combination of real estate and administrative experience. The proposal also establishes for the first time definite duties and responsibilities of course coordinators and generallly identifies the coordinator as the individual who is ultimately responsible for administering the program and complying with all applicable laws and rules.

4 MCAR Section 1.41535 Elaborates upon existing Rule 1.41511 C. by establishing for the first time specific criteria for approval as an instructor. The proposed criteria require, in most cases, a combination of educational background and practical experience.

In arriving at these specific instructor criteria, the agency has made every effort to achieve a meaningful balance between the need of real estate schools throughout the state to be able to employ a sufficient number of instructors to meet the educational requirements of prospective licensees, as against the intent of the law, which is that licensees and prospective licensees should be at least minimally

competent to meet the real estate needs of the public.The rule also enumerates specific instructor responsibilities, which will clarify the extent of their obligations.

4 MCAR Section 1.41536 Establishes certain prohibited practices for coordinators and instructors.

Paragraph A. 1-4. Coordinators and instructors are specifically prohibited from promoting any particular broker or franchise. Courses offering statutorily required real estate education to a "captive" audience should not be the setting for encouraging students to join a particular real estate brokerage or franchise. Coordinators and instructors are also prohibited from requiring students to enroll in subsequent courses or participate in other programs offered by the school as a condition of admission into a specific course. Students should be free to select courses which address their particular needs and circumstances.

Paragraph A. 5-7. Designed to protect the integrity of the real estate licensing examination.

Paragraph B. The requirement that coordinators and instructors notify the commissioner of felony convictions or disciplinary action is necessary in order to assure that they continue to qualify to instruct prospective licensees.

4 MCAR Section 1.41537 Corresponds to existing Rule 1.41511 A.2.

4 MCAR Section 1.41538 Clarifies that waivers of real estate education will not be granted under any circumstances.

4 MCAR Section 1.41539 Corresponds to existing Rule 1.41411 F. Clarifies agency policy regarding the refund of fees by a school in the event a course is cancelled or postponed.

4 MCAR Section 1.41540 Corresponds to existing Rule 1.41511 N.

4 MCAR Section 1.41541 Corresponds substantially to existing Rule 1.41511 O.

4 MCAR Section 1.41542 Requires schools to provide all students with a legible copy of course materials.

4 MCAR Section 1.41543 Corresponds to existing Rule 1.41511 I. and adds language regarding deceptive advertising of approved courses.

4 MCAR Section 1.41544 Corresponds to existing Rule 1.41511 L.

4 MCAR Section 1.41545 Corresponds to existing Rule 1.41511 Q. Clarifies that the agency may audit a course without advance notice to the school.

4 MCAR Section 1.41546 Corresponds to existing Rule 1.41511 P.

4 MCAR Section 1.41547 Places the responsibility upon students to maintain copies of their education records.

4 MCAR Section 1.41548 Clarifies existing agency policy. Licensees are currently permitted to submit continuing education credits as they are earned. The proposed rule would require licensees, for agency bookkeeping purposes, to submit one form setting forth all 45 credits. Students are urged to submit the form as soon as they have completed the 45 hours of continuing education (Minn. Stat. Section 82.23, Subd. 13 (c) (1980)).

4 MCAR Section 1.41549. A new rule is created which implements the automatic iicense transfer provisions of Minn. Laws 1982 ch 478.

Paragraph A - Minn. Laws 1982, ch. 478 authorizes salespersons to automatically transfer their real estate license from one broker to another broker if the salesperson

commences his association with the new broker "immediately" after terminating activity on behalf of his prior broker. The Commissioner has determined that "immediately" should, for reasons of certainty, mean "within five days after terminating" association with the prior broker. The Commissioner has also determined that an automatic transfer should not be available to an individual who has failed to notify the Commissioner of any change in the information contained in his license application or of any actions brought against the licensee, knowledge of which is deemed material in determining whether the licensee remains qualified to hold a real estate license.

There are a large number of license transfers each year in the real estate industry, and while the automatic transfer provision was enacted to accommodate licensees, it should not, in the opinion of the Commissioner, be available to persons who have failed to comply with the licensing law and rules.

Paragraph B - sets forth existing agency policy concerning license transfers. Also, in order to assure that the transferring salesperson is at all times under the supervision of a broker, and only one broker, the rule requires the broker from whom the salesperson is transferring to sign the transfer form first and also states that the salesperson is unlicensed until his new broker signs the transfer form.

Paragraph C - The real estate licensing law is grounded on the concept that a salesperson is licensed to a broker who is responsible for the actions of that salesperson. Minn. Laws 1982 ch. 478 states that the automatic transfer is effective upon the "mailing" of the transfer. In order to establish the exact time at which the new broker assumes responsibility for the salesperson, the rule makes the transfer effective at the moment the new broker signs the transfer form (Form RE-1Ø).

4 MCAR Section 1.41550. A new rule is created which constitutes the agency's interpretation of an aspect of the statutory definition of "real estate broker" or "broker" (Minn. Stat. Section 82.17, Subd. 4 (b) (1980)). The reference in the statute to any person who "negotiates or offers or attempts to negotiate a loan" has left many mortgagees and lenders uncertain whether they have either a corporate or an individual obligation to obtain a Minnesota real estate license. Such mortgagees and lenders do not "negotiate" loans but rather act as originators of loans and do not, therefore, in the opinion of the Commissioner, fall within the scope of the statutory definition. However, in order not to create an exemption which is too broad, and because of the difficulty in formulating a definition of "mortgagee" or "lender", the rule is limited to those mortgagees and lenders whose activities are regulated or supervised by various federal agencies or instrumentalities. The loan making activities of the ennumerated mortgagees and lenders are also subject to regulation by the Minnesota Commissioner of Banks pursuant to Minn. Stat. Section 47.20, Subd. 1 (Supp. 1981).

4 MCAR Section 1.41551. Clarifies that existing rules govern with respect to actions pending or initiated prior to the effective date of these proposed rules.

4 MCAR Section 1.41552. Paragraphs A and B are intended to address situations where a licensee or applicant, against whom revocation, suspension or denial proceedings are pending or are likely to be instituted, decides to (a) withdraw from the status of licensee, (b) withdraw a pending license application or (c) allow an existing license to lapse, with the idea that he will then "lay low" for a time in the hope that the witnesses against him will leave the jurisdiction, die, lose interest in the matter or that the case against him will otherwise be made difficult to prove due to the passage of time, with the result that it will be difficult or impossible to establish a violation when he later applies for a license.

Paragraph A is patterned after a similar provision in the law regulating securities broker-dealers, agents and investment advisers (see Minn. Stat. ch. 80A.07, Subd. 5 (1980)).

Paragraph C is patterned after Section 80A.07, Subd. 4 of the Securities Act and would permit an expeditious revocation of a real estate license where the Comissioner finds that a licensee is no longer in existence, has ceased doing business, has been adjudged mentally incompentent or cannot be located after a reasonable search. The provision in the Securities Act (which is a uniform act) was designed to regularize the procedure for getting rid of "dead wood" in licensing files. It is proposed to be inserted in the real estate rules for the same reason (there are approxmately three times as many real estate licensees in Minnesota than there are securities broker-dealers, agents and investment advisers.

FORMS

4 MCAR Section 1.41553 Course Completion Certificate (Form RE-1). See proposed Rule 1.41547.

4 MCAR Section 1.41554 Application for Coordinator Approval (Form RE-2). See proposed Rule 1.41534 B.

4 MCAR Section 1.41555 Application for Course Approval for Course I, II, and III (Form RE-3). See proposed Rule 1.41532 D.

4 MCAR Section 1.41556 Application for Instructor approval for Courses I, II, III (Form RE-4). See proposed Rule 1.41535 B.1.

4 MCAR Section 1.41557 Course II and III Record of Completion (Form RE-5). See proposed Rule 1.41534 C.9.

4 MCAR Section 1.41558 Application for Course Approval for Continuing Education (Form RE-6). See proposed Rule 1.41532 D.

4 MCAR Section 1.41559 Application for Instructor Approval for Continuing Education (Form RE-7). See proposed Rule 1.41535 B.1.

4 MCAR Section 1.41560 Notice of Subsequent Offerings of Continuing Education Courses (Form RE-8). See proposed Rule 1.41532 E.

4 MCAR Section 1.41561 Continuing Education Course Verification (Form RE-9). See proposed Rule 1.41548.

4 MCAR Section 1.41562 Real Estate Salesperson Automatic Transfer (Form RE-10). See proposed Rule 1.41549.

Date June 25, 1982

Mary Alice Brophy

MARY ALICE BROPHY
Commissioner of Securities and
Real Estate
Department of Commerce
State of Minnesota
500 Metro Square Building
St. Paul, Minnesota 55101

EXHIBIT A

BERRY

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

PENNSYLVANIA CRIME COMMISSION

COMMONWEALTH OF PENNSYLVANIA

STATE OF MINNESOTA
AUG 8 198
DEPARTMENT OF COMMERCE

RACKETEERING IN THE COMMERCIAL LOAN BROKERAGE INDUSTRY

January 1980

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In no event was any of the advance fee money forwarded to a source of funding for the benefit of Colletti's clients.[87]

V. CONCLUSION AND RECOMMENDATIONS

The Pennsylvania Crime Commission's investigation has shown that organized advance fee schemes are creating a substantial danger to the economic and general welfare of the Commonwealth. Apart from the schemes described in this report, the Crime Commission has received evidence which indicates that at least three additional advance fee schemes are presently being conducted in the Philadelphia area. While the exact magnitude of this type of activity may never be known, it is probable that advance fee schemes will become even more prevalent in light of recent economic developments which have resulted in a tightening of credit throughout the nation.

The results of the Crime Commission's investigation are a matter of serious concern for the business community, law enforcement authorities and the Legislature of Pennsylvania. The Commission has further formulated the following recommendations which are proposed as both preventive and remedial measures.

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87. During the Crime Commission's investigation of Colletti's advance fee scheme operation, it was learned that Colletti may also have been involved in stock and investment fraud schemes. At least one individual lost $25,000 to Colletti through the purchase of worthless stock, while four additional individuals lost $50,000 to Colletti in a land development deal.

A. Recommendations to Potential Borrowers

As a result of this investigation, the Pennsylvania Crime Commission has determined that certain precautions should be taken by businesspersons who are attempting to secure a loan from or through a source with which they are not familiar. Various common indicators often will be present when the individuals and entities involved in the loan activity are perpetrating a scam. Certain precautions and guidelines are set forth below to offer better protection to the borrower who is deciding whether to consummate a particular transaction.

1. Beware of a broker or lending institution which advertises the availability of millions of dollars for loan purposes at reasonable rates, even though the economy is in a period of tight money.

2. Attempt to secure the loan from a major, well established lending institution, such as a bank or insurance company first. If such an institution declines the requested financing, determine the reason and re-evaluate the need to secure funding.

3. Beware of a broker or lending institution which states that the requested funds can be secured easily, particularly if major lending institutions have already declined financing.

4. Beware of a lending institution which is located offshore or in a foreign country. Many small islands and

countries have lax banking regulations, leaving the borrower with little or no protection against fraud.

5. Employ the services of a financial expert, an accountant, an attorney or other professional who is thoroughly familiar with the financial field. The cost incurred in employing such an expert may in the long run save the potential borrower much anguish and much money.

6. Submit any proposals or contracts which are received from a broker or lending institution to a bank with which the borrower is acquainted in order to obtain an impartial opinion and evaluation.

7. Beware of a lending institution or broker which is not known to local bankers and which is comprised of officers and agents who are not known to local established lending institutions.

8. Contact consumer protection agencies and law enforcement agencies in the location of the broker or lending institution in order to verify the reputation and credibility of the company and its officers.

9. Obtain from the broker or lending institution, a list of individuals and corporations for whom funds have been successfully procured and verify the fact that such funds have been procured.

10. Do not place reliance on financial statements of the broker or lending institution that are unaudited. Reports such as Dun and Bradstreet statements, although

issued in good faith, often contain information that is supplied by the broker or lending institution and thus unverified by any outside source.

11. Carefully read all correspondence and documents that are received. Letters of commitment to produce loans often contain many conditions that realistically cannot be met.

12. Beware of high pressure sales tactics that stress the need to act swiftly and the urgent need to tender an advance fee.

13. Do not pay any fees in cash. Use a personal or company check. If the broker or lender refuses to accept such a check, advise him or her that you will be happy to have the bank certify your check.

14. Demand that all fees that are refundable in the event the loan is not secured, be placed in an escrow account which is held by an independent escrow agent or trustee. Many local banks will provide this service. Obtain a stipulation that any disbursements from such escrow account must first be approved by all parties.

15. If the fees that are paid are refundable, obtain a written statement to that effect.

16. If out-of-pocket expenses are requested by a broker, obtain an itemized accounting of the expenditures prior to payment. If your payment is to cover expenses that will be incurred in the future, place the funds in an escrow

account and receive a stipulation that the expenses will be paid only pursuant to a documented accounting.

17. Be honest with yourself. Evaluate the project and the feasibility of its success. Obtain several opinions as to the possibility of securing funding prior to applying for loans. Determine the exact amount of funds necessary and do not deter from that amount.

18. If it appears as though fraudulent activities have occurred, immediately contact local, State and federal law enforcement authorities within the area and report such activity.

B. Recommendations for Legislation

The fraudulent activities which have been described in this report can be effectively curtailed through the enactment of regulatory legislation. At the present time, there is no specific law in Pennsylvania governing persons whose business is to locate sources of financing for commercial ventures. Accordingly, the Pennsylvania Crime Commission recommends that the General Assembly of Pennsylvania review the findings presented in this report and consider the enactment of such legislation.

Based upon the patterns of fraudulent activities uncovered during the course of this investigation, the following provisions are suggested as a foundation for such legislation:

1. The extension of an existing State agency's jurisdiction to oversee the activities of loan brokers in Pennsylvania.

The commission should be invested with the powers necessary to enforce the substantive provisions of the law.

2. Such regulatory legislation should require the licensing of all individuals and entities who, in the regular course of business, attempt to locate, secure or obtain financing for commercial ventures.

3. The legislation should provide for the establishment of minimum educational standards and should also require the successful completion of a written examination as a prerequisite for licensing.

4. It should be required that all individuals who are licensed pursuant to the legislation be bonded.

5. The legislation should require the filing of an annual report by the licensed individual or entity detailing the financial condition of such individual or entity's business. This report should be available to the general public upon request.

6. Such legislation should also provide for the filing of an annual report by the licensed individual or entity, disclosing successfully consummated lending transactions. Such report should be made available to the client of a licensed broker or firm upon request, but only regarding the particular broker or firm employed by the client.

7. The legislation should require the registration of non-resident brokers who transact business in the Commonwealth of Pennsylvania.

8. Inclusion of the word "broker" as part of the business title of the licensed individual or entity should be mandatory.

9. The commission designated by the legislation should be given the power to draft rules and regulations governing the fees that may be charged by licensed individuals and entities for their services.

10. The rules and regulations should further detail under what circumstances fees may be charged for the referral of a client to another broker and the amount of such fees.

11. Mandatory utilization of an interest bearing escrow account for all fees paid by a client and provisions regulating the use and handling of such funds and account should be provided within the legislation.

12. A licensed individual or entity should also be required to furnish to each client a detailed accounting of all fees paid or payable by that client.

13. Every licensed individual and entity must be required to maintain a complete set of books and records including separate files for each client.

14. All licensed individuals and entities should be required to reveal the proposed source of funding to a client prior to the payment of any fees which are to be held in escrow.

15. The legislation should provide for the suspension or revocation of a license for violating the provisions of

the law or the rules and regulations of the commission or for the conviction of any criminal offense relating to fraudulent activity, misrepresentations or other deceptive practices.

16. There should be established a right of acknowledgement of action by the victim against any person violating the provisions of the law or the rules and regulations of the commission, including a provision for the recovery of treble damages.

C. Recommendations to Law Enforcement Authorities

1. The Pennsylvania Crime Commission recommends that State and local authorities empowered to enforce the laws of the Commonwealth more actively pursue the investigation and prosecution of the type of activities reported herein. The Commission has discovered that although many of the individuals who were defrauded reported their experiences to local authorities, no further action was taken.

2. It is recommended that federal, State and local prosecuting authorities review this report to determine whether the institution of criminal actions is warranted within their respective jurisdictions.

3. In 1973, the Pennsylvania General Assembly enacted the Corrupt Organizations Act.[88] The need for this statute

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88. 18 C.P.S.A. §911 et. seq.

was based upon the determination that organized crime exists on a large scale in Pennsylvania and that organized crime is corrupting legitimate businesses, injuring innocent investors, entrepreneurs, merchants and consumers. It was found that organized crime has created a substantial danger to the economic and general welfare of the State. The Act, however, has never been utilized successfully by any prosecutor. It is therefore recommended that State and local law enforcement authorities review the facts contained in this report to determine if the reported activities fall within the purview of that statute.

REALTOR®

CROW RIV

EXHIBIT B

August 20, 1981

STATE OF MINNESOTA

AUG 21 1981

DEPARTMENT OF COMMERCE

Minnesota Department of Commerce
500 Metro Square Building
St. Paul, Minn. 55101

Attn: Mary Alice Brophy, Commissioner

Re: Exclusive Listing Contract of the real estate profession

Dear Commissioner Brophy,

There is a great concern among our Board members regarding language in the exclusive listing contract used by real estate people.

I have attached the exclusive listing contract of the Minnesota Association of Realtors and marked the paragraph of concern, in yellow. Also note I have marked the last sentence of that paragraph, which is the only listing agreement one can obtain with that sentence included.

It has been my belief for many years that the paragraph in question was established to protect the agent from the property being sold, by the seller, within days of the expiration of the listing, but that the paragraph didn't mean anything if the property was re-listed. The problem is that the majority of listing agreements used do not state what happens to the, "protection period", if the property is re-listed with another agent.

We have a very bad situation within our Board involving this very thing right now and I can see a potential for more of this occurring, expecially during a depressed market such as we're experiencing now.

The National Association of Realtors saw the potential for problems and recommended to all State Associations, in November of 1979, that the last sentence be added to their respective exclusive listing agreements. However, there are many real estate licensees in the State that do not belong to the Association and those that do are not required to use the attached Association listing agreement.

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We feel, therefore, the State should take the initiative and amend the regulation/statute pertaining to the listing agreement to include a sentence similar to the one on the attached State Association form. Without same, there is a great potential for a seller having to pay two commissions. One, to the agent who provided the list of prospects upon expiration and another to the second agent who lists the property, after expiration of the first listing, and sells the property to a buyer on that protective list.

I can't believe the number of people I have personally encountered who are willing to sign a contract without reading it first and/or understanding what they are signing. I also blame the agents, as so many of them do not fully explain the listing agreement, etc., prior to a signing.

Because of that fact, I and many others firmly believe it should then be the responsibility of the State to take the initiative and protect the consumer/seller.

I further feel the protection period found on many listing agreements (those without the additional sentence) is a restraint of trade and a violation of the sellers rights.

Please also note I have lined in yellow the word, "offered", in the same paragraph on attached listing. I personally know an agent who will call a potential buyer on a particular property or mention it in passing to someone on the street, NEVER SHOW THEM THE PROPERTY, but places their name on the protective list when the listing expires! I can't believe the desperation for a dollar on the part of some agents, but to me the word"offered", allows the agent to, "protect", every Tom, Dick or Harry on the list given to the seller. And as I said earlier, I think the potential for problems has increased greatly do to the depressed market conditions.

I firmly believe that an agent should not have the right to place anyones name on the protective list he has not personally shown the property to. I also firmly believe, as our State Association does, that the protection period and list of prospects should not mean a thing if the property is re-listed. So many agents use a 180 day protection period, which I also feel is extremely unfair to the seller who does not re-list his property, as soo many things can occur in a six month time span. Such as, an unqualified purchaser becomes qualified for one reason or another. That purchaser may then contact the Seller, 5 months later, wishing to purchase his home do the change in his financial abilities and the seller would be stuck paying the agent a commission. I can possibly justify a sixty or even ninety day protection period, in cases where the property is not re-listed, but too many things can change or occur in a six month time span.

If I am wrong in assuming your department has the authority to do something about this problem, I would greatly appreciate your approaching the legislators in support of this situation.

Looking forward to hearing from you on this matter, I remain,

Respectfully yours,

Alice J. Lietzau

Alice J. Lietzau
Executive Secretary

REALTOR®

EXCLUSIVE LISTING CONTRACT
MINNESOTA ASSOCIATION OF REALTORS®

....., Minn....., 19.....

To.....

Members ..... Board of REALTORS

In consideration of your agreement to list in your office the real estate described as.....

.....

and of your efforts to find a purchaser for the same, I hereby grant to you the exclusive right to sell or to contract to sell said real estate within a period commencing this date and terminating on ....., 19....., for the price of .....

.....

and I hereby agree to furnish an abstract of title certified to date (or a Certificate of Title and Registered Property Abstract) to said real estate and to execute a deed of general warranty in due form of law conveying a marketable title to the same, in which my wife or husband shall join, to such persons as you shall have sold or agreed to sell the same, and for your services, I hereby agree to pay you a fee of.....% of the purchase price thereof, upon any sale or contract for the sale of said real estate made while this agreement remains in force, whether such sale be made by yourselves or by myself or by any other person or whether at the price and upon the terms stated, or at a different price or upon other terms accepted by me.

It is further agreed that upon any sale or contract for the sale of said real estate made by me within .....days next after the termination of this agreement to any person to whom, during the period of this listing, you shall have shown or offered this property of which I shall have been notified in writing by you within 72 hours of termination date, or to any person who during the period of this listing makes inquiry of me regarding this real estate, I will pay you the full rate of commission as shown above and I further agree to furnish you complete information regarding such inquiry promptly after receiving same. However, I shall not be obligated to pay you such brokerage fee if during the protection period I have entered into another valid listing agreement pursuant to which I am required to pay a brokerage fee to another real estate broker for the sale or exchange of said real estate.

You are hereby authorized to place one neat "for sale" sign on said real estate, and to remove all other signs therefrom.

Accepted ..... (Firm)

By .....

Address .....

Telephone .....

Owner .....

Owner .....

Address .....

Telephone .....

MAR-801-~~10/75~~ 11/79

MINNESOTA ASSOCIATION OF REALTORS RESIDENTIAL LISTING CONTRACT

ADDRESS _____ No. of BR _____ Dist. _____

TERMS: _____ DATE _____ PRICE $ _____

LISTING BROKER _____ PHONE _____

SALESPERSON _____ HOME PHONE _____

OWNER'S NAME _____ POSSESSION _____ YEAR BLT _____

Features and Sales Helps _____

_____

_____

_____ Blks. to Bus. _____

1ST FLOOR

L. Rm. _____ x _____ Din. R _____ x _____

Family R _____ x _____ Den _____ x _____

Kitchen _____ x _____ Brkfst _____ x _____

Bedrooms _____ x _____; _____ x _____;

_____ x _____; _____ x _____;

Bath CT ( ) PT ( ) _____ Porch _____

Bsmt. Bath _____ Amuse. Rm. x _____

Fireplace: Up _____ Dn. _____

Garage _____ x _____ Att. _____ Det. _____

INCLUSIONS: Carpeting: LR _____ DR _____ Stair _____ BR _____ Drapes: LR _____ DR _____ BR _____ Other _____

OTHER _____ Built-Ins _____

OTHER INCLUSIONS: _____

2ND FLOOR

Bedrooms _____ x _____; _____ x _____

_____ x _____; _____ x _____; _____ x _____;

Baths CT ( ) PT ( ) _____ OTHER _____

_____

3rd floor or attic _____

1st Fl. sq. ft. _____ BSMT ( ) yes ( ) No

Ext. Finish _____

LOT SIZE _____

Reason for selling _____

SCHOOLS: Elem. _____ Jr. High _____ Sr. High _____ Parochial _____

Sewer: Conn. _____ Water: Conn. _____ Private: Water _____ Gas: Conn. _____ Type Heat: Gas _____ Oil _____

In St. _____ In St. _____ Sewer _____ In St. _____ Other _____

Taxes & specials due in ( ) HS Specials included in Total **Total Unpaid Specials $** _____

19____ $_____ ( ) NHS ← 19____ $_____

First Mtg. Bal. $ _____ Int. Rate _____ FHA _____ GI _____ Conv. _____ Held By _____

Monthly Pymt: PI $ _____ Taxes & Specials $ _____ Ins. $ _____ TOTAL $ _____

Other Financing _____ Monthly Payments _____ Bal. Due _____ Int. Rate _____

MORTGAGE COMMITMENT $ _____ Years _____ Int. _____ Thru _____

EXHIBIT C

STATE of Minnesota, By Warren SPANNAUS, Its Attorney General, and John R. Larson, Its Commissioner of Securities, Appellant,

v.

Larry D. BESLANOWITCH, Individually, and d. b. a. Rental Directory, Respondent.

No. 46379.

Supreme Court of Minnesota.

Nov. 5, 1976.

Action was brought by State, by its Attorney General, for declaratory relief and to enjoin business activities of defendant which were claimed to constitute activities for which a real estate broker's license was required. The District Court, Olmsted County, Donald T. Franke, retired judge, entered judgment refusing to grant declaratory and injunctive relief sought and the State appealed. The Supreme Court, Peterson, J., held that statute defining real estate broker as person who, among other things, lists, sells, exchanges, rentals of interest or estate in real estate excludes from its regulatory scope the pure sale of rental information but includes within its scope the rendering of individualized service to meet the needs of specific persons.

Reversed and remanded.

MacLaughlin, J., filed a dissenting opinion in which Yetka and Marsden, JJ., joined.

1. Brokers ⇐3

In contemplation of statute defining real estate broker as person who, among other things, lists, sells, exchanges, buys or rents real estate word "lists" refers to more than a mere physical process of compiling and publishing descriptions of property, and contemplates the additional activity of using such lists of properties for purpose of attempting to meet the individual needs of some specifically identified seller, buyer, landlord, or tenant. M.S.A. §§ 82.01 et seq., 82.17, subd. 4(a), 82.19.

See publication Words and Phrases for other judicial constructions and definitions.

2. Brokers ⇐3

Statute defining real estate broker who is required to be licensed as person who, among other things, lists, exchanges, sells, buys or rents interest or estate in real estate does not contemplate persons who merely compile and publish information about rental vacancies in a general manner. M.S.A. §§ 82.01 et seq., 82.17, subd. 4(a), 82.19.

3. Brokers ⇐3

Where the essential elements of defendant's business included soliciting landlords for information about their vacancies, classifying and compiling information into a convenient form and charging potential customers who desired to have information, such activities without more did not require real estate brokers license but line was crossed when defendant's employee searched information bank for individual's need and made recommendations, or if potential tenant was called if anything meeting his individual needs became available. M.S.A. § 82.17, subd. 4(a).

4. Brokers ⇐3

In contemplation of real estate broker licensing statute defining a real estate broker as a person who, among other things, negotiates sales or rentals of real estate term "negotiate" refers to more than mere sale of information. M.S.A. § 82.17, subd. 4(a).

See publication Words and Phrases for other judicial constructions and definitions.

Syllabus by the Court

While Minn.St. c. 82 does not require those who engage only in the business of selling information about residential real estate vacancies to obtain a real estate broker's license, it does require a person to obtain a license before he may attempt to meet the individual needs of a specifically identified landlord or tenant.

Warren Spannaus, Atty. Gen., Richard G. Mark, Asst. Sol. Gen., Robert W. Herr and Thomas R. Muck, Asst. Attys. Gen., Barry R. Greller, Sp. Asst. Atty. Gen., St. Paul, for appellant.

Schacht, Kerr & Steiner and George R. Kerr, Rochester, for respondent.

Heard before ROGOSHESKE, MacLAUGHLIN, and MARSDEN, JJ., and considered and decided by the court en banc.

PETERSON, Justice.

The state, by the attorney general, contends that business activities conducted by defendant, Larry D. Beslanowitch, are activities for which a real estate broker's license is required. It appeals from the judgment of the district court refusing to grant the declaratory and injunctive relief it sought against defendant.

Defendant is a Montana resident who conducts business in a number of states. In Rochester, Minnesota, he calls his business Rental Directory. The employees of Rental Directory in Rochester solicit landlords for information about residential real estate vacancies and catalog the information they receive. They also advertise in the media so as to alert potential tenants to their services. When a potential tenant contacts Rental Directory, an employee explains the service which is provided and invites him to use it. The fee to the potential tenant (customer) is $20 for a 30-day agreement or $30 for a 1-year agreement. If he wishes to pay this fee, he is asked to fill out an information sheet specifying what kind of rental he is seeking. The employees of Rental Directory then supply him with the names and addresses of landlords who they think might have vacancies meeting those specifications. The customer may receive additional information throughout the period of this agreement.

The evidence conflicted as to what further services the employees of Rental Directory furnished their customers. Defendant Beslanowitch testified that his employees were taught not to enter into any dialog with landlords or customers and that the customers themselves contact the landlords and negotiate with them. He testified that after giving information to the customer about vacancies the only further contact Rental Directory would have with the customer was to provide information about still other vacancies. According to Beslanowitch, his employees never go with a customer to look over the potential rentals, and they never make any recommendations as to how much rent to charge, what facilities such as refrigerators or stoves should be provided, or whether pets ought to be allowed. He characterized the business as being the same kind of business a daily newspaper engages in—the advertising of properties for rent.

The testimony of Rental Directory customers, however, showed that on at least three occasions Jan Scripture, the manager of Rental Directory in Rochester, called a landlord as a convenience to the customers. Her purpose in these calls was to ascertain whether a landlord was home, whether pets were acceptable, and whether a stove or refrigerator came with the rental. The testimony also showed that Scripture had told or led at least three customers to believe that she would contact them if something new meeting their specifications came up, and that on one or two occasions she had indeed called a potential tenant to tell him about a new vacancy.

The evidence indicated that licensed real estate brokers in the Rochester area usually do not seek to service the residential rental market. Some of them, moreover, refer to Rental Directory their customers who wish to locate residential rentals, apparently because they do not themselves collect and maintain information about residential vacancies.

Minn.St. 82.19 prohibits any person from acting as a real estate broker unless he is licensed under chapter 82. Minn.St. 82.17, subd. 4, in relevant part, defines "real estate broker" as any person who:

> "(a) For another and for commission, fee or other valuable consideration or with the intention or expectation of re-

ceiving the same directly or indirectly lists, sells, exchanges, buys or rents, manages, or offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds himself or itself out as engaged in such activities."

It is clear that Rental Directory's cataloging of information is accomplished with the expectation of receiving valuable consideration either directly or indirectly (i. e., from the potential tenant). At issue is whether its activities constitute "listing" for another and whether its activities constitute "offers or attempts to negotiate" a rental of an estate in real estate.

[1] The state, citing a definition contained in Webster's New International Dictionary (2 ed. 1947) p. 1442, contends that the word "lists" as used in Minn.St. 82.17, subd. 4(a), means "[t]o enter or enroll in a list or catalogue." The word clearly encompasses more than the mere physical process of compiling and publishing descriptions of property, however, This is a widely performed function which is typified by the real estate advertisements contained in the classified section of a newspaper, and no one seriously contends that the legislature intended to require newspapers to obtain a broker's license before publishing a list of descriptions of available real estate. In the contemplation of the statute the word refers to the additional activity of using such a list of properties for the purpose of attempting to meet the individual needs of some specifically identified seller, buyer, landlord, or tenant.

[2] Our conclusion as to the intended scope of the word "lists" as used by the legislature in Minn.St. 82.17, subd. 4(a), is supported by an analysis of a later portion of the same subdivision. Minn.St. 82.17, subd. 4(e), requires that one be licensed before he—

"[e]ngages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby he undertakes to promote the sale of real estate through its listing in a publication issued primarily for such purpose."

If "lists" as used in subd. 4(a) were intended to include the mere compilation and publication of information without more, then subd. 4(e) would be superfluous. In addition, we note that subd. 4(e) regulates only those who publish information in order to promote the *sale* of real estate, while subd. 4(a) is broader and regulates those whose activities are directed not just to sales, but to options, exchanges, purchases, and rentals of an interest or estate in real estate as well. It is reasonable to conclude that had the legislature intended to regulate those who compile and publish information about rental vacancies in a general manner, it would have so specified in subd. 4(e) rather than limiting that subsection to sales only. That it did not provide for this regulation in subd. 4(e), the most logical place for such a provision, indicates it did not intend the word "lists" in subd. 4(a) to encompass such regulation either.

[3] The essential elements of defendant's business include soliciting landlords for information about their vacancies; classifying, indexing, and compiling the information into a convenient form; and charging the potential tenants (customers) who desire to have this information. These limited activities without more do not constitute the "listing" of an interest or estate in real estate as that word is used in Minn.St. 82.17, subd. 4(a), for the reason that they are not tailored to meet the individual needs of any specifically identified landlord or tenant. The only response to an individual landlord's need to find a tenant is the placing of a description of the property into an information bank, and the only response to an individual tenant's need to find a vacancy is the publication to him of all the information that has been received from landlords. This is the same function performed by newspaper classified advertisements and other advertising media, and so long as defendant's activities go no further than the providing of this limited service, he does not come within the scope of the statute any more than do other advertising media.

The line is crossed, however, when one engaged in defendant's business begins to provide special service to an individual landlord or tenant beyond the compilation and publication of information which might or might not be of value to any specific person. For example, if defendant represented to a landlord that he or his employees would actively attempt to locate a tenant to rent his property, and if he then proceeded to seek out such a tenant, he would be attempting to meet the individual needs of a specifically identified landlord and his activities would therefore come within the meaning of "lists" as used in Minn.St. 82.17, subd. 4(a).

The line is also crossed when one offers services tailored to the individual needs of a specific tenant. If, in exchange for a potential tenant's fee, defendant simply opened to him the entire information bank and did nothing more, the statute would not be applicable because there would be no attempt to meet the individual needs of a specific tenant. Defendant's only activity would be the sale of information to those who wish to buy it and without regard to its applicability to any specifically identified tenant. If, however, the Rental Directory employee handling a tenant's request queries him as to his individual needs and exactly what it is he seeks, and if the employee then searches the information bank for the tenant and makes recommendations as to which properties most nearly answer those needs, then the service rendered comes within the purview of the statute. Similarly, if an employee represents to a potential tenant that Rental Directory will call him if anything meeting his individual needs becomes available, or if the employee does in fact perform such a service, the statute becomes applicable.

[4] The issue which, if any, of defendant's business activities constitute an offer or attempt to negotiate a rental of an estate in real estate is closely related to the issue of which of defendant's activities constitute "listing" within the meaning of Minn.St. 82.17, subd. 4(a). In the contemplation of the statute the term "negotiate" also refers to more than the mere sale of information. If defendant limits the service he provides to the collection of information about residential real estate vacancies, the compilation of that information into a convenient form, and the publication of the entire information bank to those who wish to avail themselves of it, then he is not offering or attempting to negotiate a rental of an estate in real estate within the meaning of the statute. If, however, he attempts to persuade a specifically identified prospective tenant to enter into a rental arrangement with a specifically identified landlord (or vice versa), then the statute becomes applicable.

It has been demonstrated that some of defendant's business activities fall within the purview of the statute while others do not. The district court refused to enjoin those activities which are violative of the statute, even though it was apparently persuaded that defendant's employees did on occasion engage in them. Because of the district court's construction of the statute, however, its findings were not specific as to the critical activities. Accordingly we reverse and remand for further proceedings not inconsistent with this opinion.

At several points in this litigation it has been suggested that defendant has engaged in false advertising and that not just some but literally all of his business activities should therefore be construed as falling within the purview of the statute. Certainly it is within the ability of the legislature to regulate even those who engage only in the sale of information, provided of course that its regulation complies with all constitutional requirements. It is not our function, however, to decide whether ar given activity ought or ought not to be regulated. Our function is simply to construe and enforce the limits which the legislature has set, and not those limits which we may think it ought to set. We have decided that the legislative intent was to exclude from the regulatory scope of the statute the pure sale of information, but to include within its scope the rendering of individualized service to meet the needs of a specific person.

Should the legislature find that the social welfare requires regulation of the mere sale of information about residential real estate vacancies, regulation beyond the ordinary consumer fraud remedies, then it may deal with the specific problems it perceives. Until the legislature makes such a determination, however, it is our function to enforce only that extent of regulation which it has thus far prescribed.

Reversed and remanded.

MacLAUGHLIN, Justice (dissenting).

In my judgment Minn.St. c. 82 is a remedial statute intended for the protection of the public and should be liberally construed. As we stated in *Albers v. Fitschen,* 274 Minn. 375, 376, 143 N.W.2d 841, 843 (1966), the statute was "enacted in the public interest to prevent abuses by unqualified or unreliable real estate brokers and salesmen." To accomplish this goal the legislature broadly defined the term "real estate broker" to include anyone who:

> "For another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys or rents, manages, or offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds himself or itself out as engaged in such activities." Minn.St. 82.-17, subd. 4(a).

By using this broad definition it seems clear to me that the legislature intended the term "broker" to include anyone who is primarily engaged in the business of bringing together either a prospective real estate buyer and seller or a prospective tenant and landlord.[1] It also seems clear to me that this defendant is engaged in the business of bringing together prospective tenants and landlords. The defendant solicits landlords to list rental vacancies with it, and then, attempts to fill these vacancies with prospective tenants from whom it extracts a fee. By doing so defendant engages in the activities of a real estate broker as contemplated by Minn.St. 82.17, subd. 4(a). The fact that defendant does not actively participate in the negotiations of the terms should not be relevant to the question of whether the act is applicable to these activities. As stated in *People v. Sickinger,* 79 Misc.2d 572, 574, 360 N.Y. S.2d 796, 799 (1974): "* * * [T]he brokerage function is exercised when parties are brought together, although the details may be worked out later without the broker." Instead of construing the act broadly, it appears to me that the majority opinion labors to narrowly construe the statute in a manner which excludes defendant.

Further, and most importantly, it seems apparent as a matter of common sense and common experience that, as stated by the New Jersey Real Estate Commission: "The possibility of fraud, misinterpretation and sharp or unconscionable practices [is] great in [the rental referral agency] field." *N. J. Real Estate Comm. v. Rentex, Inc.,* Docket No. Cam–12679, affirmed sub nom. *State v. Graham* (App.Div., decided Nov. 17, 1975).[2]

1. The majority suggests that a broad definition of the term "broker" would include newspapers. While newspapers through their real estate advertisements could be viewed as bringing together prospective tenants and landlords, I believe there are significant distinctions between a newspaper and defendant's business. The real estate broker statute is aimed at regulating those who are engaged in the *business* of brokering. A newspaper is clearly not engaged in the business of brokering. The fact that a newspaper's classified ads may have the effect of bringing together prospective tenants and landlords is truly incidental to the operation of the newspaper. Consequently, I do not believe it can be seriously contended that the legislature intended to regulate newspapers simply because of this incidental effect. There is no direct contract between the newspaper and a prospective tenant and it is clear in the public's mind that there is no agency association between the newspaper and the landlords who advertise in the classified ads. Therefore, a newspaper cannot, in my judgment, be equated with defendant's business and a broad definition of "broker" would not encompass the operation of a newspaper.

2. The trial court, in its memorandum states as follows: "While it is not at issue in the instant case, it does appear that a degree of misrepresentation occurs in the newspaper advertising of the defendant after several of the witnesses testified that the inviting property advertised at a very reasonable rental turned out to be not

I believe that it was the intent of the legislature to protect the renting public from "fraud, misinterpretation and sharp or unconscionable practices" in this type of business when it enacted Minn.St. c. 82. By construing the statute liberally instead of narrowly, the commissioner of securities would be authorized to promulgate rules and regulations, with enforcement provisions, designed to protect consumers from "sharp" practices in the rental referral business. I would hold that the statute applies to the defendant and would reverse.

YETKA, Justice (dissenting).

I join in the dissent of Mr. Justice MacLaughlin.

MARSDEN, Justice (dissenting).

I agree with the views expressed by Mr. Justice MacLaughlin and join in his dissent.



Homer A. BONHIVER, as Receiver of American Allied Insurance Company, Respondent,

v.

Philip H. GRAFF, et al., Appellants,

Frank J. Delmont Agency, Inc., et al., intervenors, Respondents.

No. 45493.

Supreme Court of Minnesota.

Nov. 19, 1976.

Receiver brought action against accounting firm and individual accountant formerly employed by the firm to recover for damage sustained by insolvent insurance company. The receiver alleged that defendants had negligently failed to discover that the company's officers were misappropriating funds. The District Court, Ramsey County, Ronald E. Hachey, J., awarded monetary damages to the receiver and to a general insurance agent who intervened. Defendants appealed and other parties filed notices of review and the Supreme Court, Sheran, C. J., held that the action was timely; that the statute of limitations had been tolled as to the intervenor by his commencement of suit in federal court; that the receiver could maintain the action to recover for fraud committed by the company's own officers; that any negligence on the part of the insurance commissioner was at most concurrent negligence; that evidence was sufficient to establish the accountants' negligence; that defendants could be held liable even though they had not produced an audited or completed financial statement; that, except as to the intervenor's claim, the statute of limitations had not been tolled by the intervenor's class action filed in federal court; that defendants were liable to the intervenor for damages for loss of business reputation; that an award of $88,350.94 damages to the receiver was proper; that the award of $29,000 in damages to the intervenor insurance agent was proper; and that no prejudgment interest could be allowed.

Judgment affirmed.

1. Limitation of Actions ⇐43

For statute of limitations purposes, right of action does not accrue nor does time of limitation begin to run until damage is occasioned. M.S.A. §§ 541.01, 541.05(5).

2. Limitation of Actions ⇐55(3)

Where all negligent acts chargeable to accounting firm had been committed and damage to insurance company had occurred

available once they had paid their fee for the rental list."

It seems to me, taking a broader view, that defendant's deceptive practices are "at issue" in the instant case in the sense that the statute must be broadly construed to achieve the remedy for which it is intended.

In the Matter of the Proposed Adoption of Rules of the State Department of Commerce, Securities and Real Estate Division Governing Real Estate Brokers and Salespersons.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Barry R. Greller, Special Assistant Attorney General, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Barry R. Greller
Special Assistant
Attorney General

Dated: August 31, 1982.

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

COMMISSIONER OF SECURITIES & REAL ESTATE

In the Matter of the Proposed Adoption
Amendment and Repeal of Rules and Forms of
the State Department of Commerce, Securities
& Real Estate Div. Governing Real Estate Brokers
& Salespersons

AFFIDAVIT OF
MAILING NOTICE OF
SUBMISSION TO THE
ATTORNEY GENERAL

STATE OF MINNESOTA)

) ss.

COUNTY OF RAMSEY)

Daniel W. Hardy, Assistant to the Commissioner of Securities & Real Estate, being first duly sworn, deposes and says:

That on the 31st day of August, 1982, in the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for first class mailing (or) in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Daniel W. Hardy
Asst. to Commr

Subscribed and sworn to before me this
31st day of August, 19.82

Samuel F. Johnson

SAMUEL F. JOHNSON
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires Sept. 29, 1985

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

COMMISSIONER OF SECURITIES & REAL ESTATE

In the Matter of the Proposed Adoption of the Rules of the State Department of Commerce, Securities & Real Estate Div. Governing Real Estate Brokers & Salespersons

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 15.0412:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, August 31, 1982, for review as to form and legality. Pursuant to 1 MCAR § 1.206 B., the Attorney General will not approve the rules for at least 14 calendar days after receipt to allow for any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, 204 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612) 296-6555. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact:

Daniel W. Hardy
Department of Commerce
Securities & Real Estate
500 Metro Square Building
St. Paul, MN 55101