

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

~~1501~~ 05.0009.0110

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-7-86
DATE FOR REVIEW ~~8-15(16)86~~ 8-19-86
DATE DUE 8-21-86

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

Approved Aug 18, 1986 MK Disapproved _____ Returned to Agency 8-19-86

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

Date filed w/Secretary of State 8-19-86 Revisor approved 8-11-86 ~~disapproved~~

✓ Rule as Adopted - 4 Copies

✓ Rule as Proposed

✓ Order Adopting 7.28.86 Date combined with F/F

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
~~Date of Hearing~~

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
_____ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking Verify notary expiration
5.28.86 At least 30 days prior to ~~hearing~~/adoption Dec 3, 1986

✓ Mailing list Certificate

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

~~Hearing Examiner's Report~~

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

✓ Agency's Findings of Fact combined w/ Order Adopting

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

N/A 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 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

N/A Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: MICHAEL A. HATCH
COMMISSIONER OF COMMERCE

ATTN: ALAN I. GILBERT
Special Assistant Attorney General

DATE: 08/19/86

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules Relating to Cancellation of Commercial Insurance Policies

The above-referenced rule has been approved as to its legality by the Attorney General on August 18, 1986.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1301

Department of Commerce

Adopted Rules Relating to Cancellation of Commercial Policies

Rules as Adopted

2700.2400 SCOPE.

Except as specifically limited in part 2700.2430, parts 2700.2400 to 2700.2440 apply to all commercial liability and/or property insurance policies issued by companies licensed to do business in this state except ocean marine insurance, accident and health insurance, excess insurance, surplus line insurance, and reinsurance.

2700.2410 MIDTERM CANCELLATION.

Subpart 1. **Reason for cancellation.** No insurer may cancel a policy of commercial liability and/or property insurance during the term of the policy, except for one or more of the following reasons:

A. to H. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

2700.2420 NONRENEWAL.

Subpart 1. **Notice required.** At least 30 days prior to the date of expiration provided in the policy, a notice of intention not to renew the policy beyond the agreed expiration date must be made to the policyholder by the insurer. If the notice is not given at least 30 days prior to the date of expiration provided in the policy, the policy shall continue in force until 30 days after a notice of intent not to renew is received by the policyholder.

Subp. 2. [Unchanged.]

2700.2430 RENEWAL WITH ALTERED RATES.

Subpart 1. **General.** If an insurance company licensed to do business in this state offers or purports to offer to renew any commercial liability and/or property insurance policy at less favorable terms as to the dollar amount of coverage or

deductibles, higher rates, and/or higher rating plan, the new terms, the new rates and/or rating plan may take effect on the renewal date of the policy if the insurer has sent to the policyholder notice of the new terms, new rates and/or rating plan at least 30 days prior to the expiration date. If the insurer has not so notified the policyholder, the policyholder may elect to cancel the renewal policy within the 30-day period after receipt of the notice. Earned premium for the period of coverage, if any, shall be calculated pro rata upon the prior rate. This subdivision does not apply to ocean marine insurance, accident and health insurance, and reinsurance.

Subp. 2. [Unchanged.]

STATE OF MINNESOTA
FILED

STATE OF MINNESOTA
FILED

AUG 19 1986

Joan Anderson Growe
Secretary of State

9:30 AM

APPROVED AS TO FORM AND LEGALITY
August 18 1986
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassidy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Cancellation of Commercial Insurance Policies

FINDINGS OF FACT AND CONCLUSIONS AND ORDER ADOPTING RULE

Notice of the Commissioner's proposed adoption of the above entitled rules without public hearing was published in the State Register on Monday June 9 at 10 S.R. 2448. Notice was sent by United States Mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, Section 14.14, subd. 1, paragraph (a) and 14.22 on May 28 1986.

All persons were given the opportunity to submit comments on the Rule for thirty days after notice of proposed rulemaking. Fewer than 25 requests for hearing within the 30 day comment period were received. No submissions or comments on the rules were received by the Department. Based upon the comments and evidence on the record for the agency I find that the rules are need and reasonable and that it is appropriate to adopt the rules as they were published.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules Relating to Cancellation of Commercial Policies are adopted as published this 28th day of July 1986 pursuant to the authority vested in me by Minnesota Statutes Section 45.023 and 61A.03.

MICHAEL A. HATCH
Commissioner of Commerce

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Cancellation, Nonrenewal and Change of Rates of Commercial Insurance	ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 21st day of May 1986 that Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Department of Commerce for that purpose and be published in the State Register.

Michael A. Hatch
Commissioner of Commerce

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of Rules Relating to Cancellation, Nonrenewal and Renewal With Altered Terms of Commercial Insurance Policies

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and does not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30 day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Sections 45.023 and 61A.03. Additionally a Statement of Need and Reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonablenss, 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 Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice. Copies of this Notice and proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

In the Matter of the Proposed Rules Relating to Cancellation, Nonrenewal ~~and~~ Renewal With Altered Terms of Commercial Insurance Policies

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

AFFIDAVIT OF MAILING

Jane Schaub, being first duly sworn, deposes and says:

That on the 28th day of May 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, the attached Notice of Hearing was served by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly prepared with first-class postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Department of Commerce for the purpose of receiving notice of the proposed adoption of rules by the department.

Jane Schaub

Jane Schaub

Subscribed and sworn to before me
this 29th day of May 1986.

Richard G. Gomsrud

Notary Public

RICHARD G. GOMSRUD
NOTARY PUBLIC MINNESOTA
RAMSEY COUNTY

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE
500 METRO SQUARE BUILDING
ST. PAUL, MN 55101

ATTENTION:
RULE RELATED MATERIAL

FIRST CLASS MAIL

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of Rules Relating to Cancellation, Nonrenewal and Renewal With Altered Terms of Commercial Insurance Policies

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and does not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30 day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Sections 45.023 and 61A.03. Additionally a Statement of Need and Reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

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 Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice. Copies of this Notice and proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Proposed Rules Relating to Cancellation of Commercial Policies

Rules as Proposed

2700.2400 SCOPE.

Except as specifically limited in part 2700.2430, parts 2700.2400 to ~~2700.2450~~ 2700.2440 apply to all commercial liability and/or property insurance policies issued by companies licensed to do business in this state except ~~workers' compensation insurance, employers' liability,~~ ocean marine insurance, accident and health insurance, excess insurance, surplus line insurance, and reinsurance.

2700.2410 MIDTERM CANCELLATION.

Subpart 1. **Reason for cancellation.** No insurer may cancel a policy of commercial liability and/or property insurance during the term of the policy, except for one or more of the following reasons:

A. to H. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

2700.2420 NONRENEWAL.

Subpart 1. **Notice required.** ~~An insurer shall renew the policy, unless~~ At least 30 days prior to the date of expiration provided in the policy, a notice of intention not to renew the policy beyond the agreed expiration date ~~is~~ must be made to the policyholder by the insurer. If the notice is not given at least 30 days prior to the date of expiration provided in the policy, the policy shall continue in force until 30 days after a notice of intent not to renew is received by the policyholder.

Subp. 2. [Unchanged.]

2700.2430 RENEWAL WITH ALTERED RATES.

Subpart 1. **General.** ~~Subject to subpart 2, if the insurer offers or purports to renew the policy at less favorable terms as to the dollar amount of coverage or deductibles, higher~~

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

~~rates, and/or higher rating plan, the new terms, the new rates and/or rating plan may take effect on the renewal date if the insurer has sent to the policyholder notice of the new terms, new rates and/or rating plan at least 30 days prior to the expiration date. If the insurer has not so notified the policyholder, the policyholder may elect to cancel the renewal policy within the 30 day period after receipt of the notice. Earned premium for the period of coverage, if any, shall be calculated pro rata.~~

If an insurance company licensed to do business in this state offers or purports to offer to renew any commercial liability and/or property insurance policy at less favorable terms as to the dollar amount of coverage or deductibles, higher rates, and/or higher rating plan, the new terms, the new rates and/or rating plan may take effect on the renewal date of the policy if the insurer has sent to the policyholder notice of the new terms, new rates and/or rating plan at least 30 days prior to the expiration date. If the insurer has not so notified the policyholder, the policyholder may elect to cancel the renewal policy within the 30-day period after receipt of the notice. Earned premium for the period of coverage, if any, shall be calculated pro rata upon the prior rate. This subdivision does not apply to ocean marine insurance, accident and health insurance, and reinsurance.

Subp. 2. [Unchanged.]

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of Rules Relating to Real Estate Broker Licensing and Education

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and does not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30 day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Sections 45.023 and 61A.03. Additionally a Statement of Need and Reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

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 Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice. Copies of this Notice and proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Proposed Rules Relating to Real Estate Broker Licensing and Education

Rules as Proposed

2800.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of ~~parts 2800.0100 to 2800.1700, 2800.1800 to 2800.2100, 2800.3100 to 2800.7100, 2800.7200, 2800.7300, 2800.7400, 2800.7500, 2800.7600 to 2800.8700, and 2800.9905~~ this chapter, the terms defined in this part have the meanings given them.

Subp. 2. to 12. [Unchanged.]

Subp. 13. **~~School~~ Sponsor.** ~~"School"~~ "Sponsor" means a person offering or providing real estate education.

Subp. 14. [Unchanged.]

2800.1300 LICENSE.

Subpart 1. [Unchanged.]

Subp. 2. **Cancellation of salesperson's or broker's license.** A salesperson's or broker's license that has been canceled for failure of a licensee to complete postlicensing 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~~ two years of the cancellation date.

Subp. 3. [Unchanged.]

2800.1600 NOTICE TO ~~THE~~ COMMISSIONER.

Subpart 1. [See Repealer.]

Subp. 2. **Change of application information.** The commissioner ~~shall~~ must 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.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Subp. 3. to 5. [See Repealer.]

2800.1700 AUTOMATIC TRANSFER OF SALESPERSON'S LICENSE.

Subpart 1. **Scope.** A salesperson may utilize the automatic license transfer provisions of ~~laws of Minnesota 1982, chapter 478~~ Minnesota Statutes, section ~~1~~ 82.20, subdivision 9, clause (b) if the salesperson commences ~~his or her~~ association with the broker to whom ~~he or she~~ the salesperson is transferring, as evidenced by the dates of the signatures of both brokers on the form ~~in part 2800.9955~~ prescribed by the commissioner, within five days after terminating ~~his or her~~ the salesperson's association with the broker from whom ~~he or she~~ the salesperson is transferring, provided the salesperson's educational requirements are not past due.

A salesperson may not utilize the automatic license transfer provisions of ~~laws of Minnesota 1982, chapter 478~~ Minnesota Statutes, section ~~1~~ 82.20, subdivision 9, clause (b) if ~~he or she~~ the salesperson has failed to notify the commissioner within ten days of any change of information contained in ~~his or her~~ the salesperson's license application on file with the commissioner or of a civil judgment, disciplinary action, or criminal offense, which notice is required pursuant to part 2800.1600.

Subp. 2. **Procedure.** An application for automatic transfer shall be made only on the form ~~in part 2800.9955~~ prescribed by the commissioner. The transfer is ineffective if the form is not completed in its entirety.

The form ~~in part 2800.9955~~ 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.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

The signature ~~on the form in part 2800.9955~~ 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.

Subp. 3. Effective date. ~~Effective date.~~

A. The transfer is effective when the broker to whom the salesperson is transferring signs and dates the transfer application form ~~in part 2800.9955~~, 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. The properly executed automatic transfer form serves as a temporary real estate license for no more than 45 days.

B. and C. [Unchanged.]

2800.1750 REAL ESTATE SALESPERSON AUTOMATIC TRANSFER.

The real estate salesperson automatic transfer shall be in the form ~~set forth in part 2800.9955~~ prescribed by the commissioner.

2800.1751 INDIVIDUAL APPOINTMENT OF ATTORNEY FOR SERVICE OF PROCESS.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
~~CENTRAL~~ LICENSING ~~SECTION----REAL ESTATE~~ UNIT
5th Floor, Metro Square Bldg.
Seventh and Robert Streets
St. Paul, Minnesota 55101

INDIVIDUAL APPOINTMENT OF ATTORNEY FOR SERVICE OF PROCESS

KNOW ALL PERSONS BY THESE PRESENTS:

That in compliance with the Laws of the State of Minnesota, _____ a non-resident, does hereby appoint the Commissioner of Securities Commerce of the State of Minnesota, his/her successor or successors as his/her true and lawful attorney upon whom may be served all legal process in any action or proceeding in which he/she may be a party and which relates to or involves any transaction covered by Chapter 82, Minnesota Statutes, and does hereby expressly consent and agree that service upon such attorney shall be as valid and binding as if due and personal service had been made upon him/her and that such appointment shall be irrevocable.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 19___.

_____

_____

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 19____, personally appeared before me, a notary public in and for said County and State, _____, to me known to be the person described in and who executed the foregoing instrument and who, being by me first sworn, acknowledged that he/she executed the same as his/her free act and deed.

_____

Notary Public, _____ County _____

(NOTARIAL SEAL) My Commission expires _____

2800.1900 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~~ two years after the license was last effective and enter a revocation or suspension order as of the last date on which the license was in effect.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

_____

2800.2100 COURSE COMPLETION CERTIFICATES FOR SALESPERSON'S LICENSE.

Applicants for a salesperson's license shall submit to the commissioner, along with their application for licensure, a copy of the course completion certificate ~~in part 2800.9910~~ for ~~course~~ courses I, ~~and for courses~~ II, and III ~~if completed prior to being licensed~~.

Students are responsible for maintaining copies of course completion certificates.

2800.2150 COURSE COMPLETION CERTIFICATE.

The real estate education course completion certificate shall be in the form ~~in part 2800.9910~~ set forth by the commissioner.

2800.4200 NEGOTIATIONS.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **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, buyer, or lessee nor shall a licensee negotiate the purchase, lease, or exchange knowing that the buyer or lessee has executed a written contract granting an exclusive agency for the purchase, lease, or exchange of real property to another real estate broker. The licensee ~~shall~~ must inquire of the owner ~~or~~, lessor, buyer, or lessee whether such a contract exists.

Subp. 7. **Prohibition against interference with contractual relationships of others.** Licensees shall not induce any party to a contract of sale, purchase, or lease, option, or exclusive listing agreement or buyer's agreement, to breach the contract, option, or agreement.

Subp. 8. [Unchanged.]

2800.5100 ~~NINETY-HOUR INITIAL~~ PRELICENSE EDUCATION.

APPROVED IN THE REVISED STATUTES

An approved ~~90-hour~~ course of ~~initial~~ prelicense education shall consist of three 30-classroom-hour courses to be designated as course I, course II, and course III. Pursuant to Minnesota Statutes, section 82.22, subdivision 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.

2800.5200 SALESPERSON'S EXAMINATION.

Applicants must successfully complete all portions of 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.

2800.5300 APPLICATION FOR SALESPERSON'S LICENSE.

Applicants must apply for a salesperson's license within one year ~~after~~ of successful completion of all portions of the licensing examination. Courses II and III must be completed prior to application. Applicants who fail to apply for a license within the one-year period must retake course I and successfully complete the examination.

2800.5400 POSTLICENSING EDUCATION ~~COURSE~~.

~~Courses II and III~~ Thirty hours of approved continuing education must be completed within one year after obtaining a salesperson's license.

2800.5600 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~~ 30 days prior to the date upon which that education is due to be completed, if:

A. [Unchanged.]

B. the salesperson demonstrates successful completion of a course ~~in another jurisdiction~~ that is substantially similar to course II or III.

2800.5900 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~~ sponsor that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course.

2800.6500 COURSE III CURRICULUM.

Subpart 1. to 9. [Unchanged.]

Subp. 10. **Combination course.** A combination course shall consist of no more than three of the preceding nine subparts and shall devote at least ten hours to each subject. A ~~school~~ sponsor that 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.

2800.6800 CONTINUING EDUCATION.

Subpart 1. [Unchanged.]

Subp. 2. and 3. [See Repealer.]

Subp. 4. **Examinations.** Course examinations will not be required for continuing education courses unless they are required by the ~~school~~ sponsor or the licensee elects to take course III for continuing education credit.

Subp. 5. and 6. [Unchanged.]

Subp. 7. ~~**Disapproved courses.** Approval will not be granted for courses designed to prepare students for passing any licensing examinations, in mechanical office or business skills,~~

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~~including typing, speed reading, use of calculators, or other machines or equipment, in sales promotion, including meetings held in conjunction with the general business of the licensee's broker, or in motivation, salesmanship, psychology, or time management.~~ Nonapproved courses for continuing education. The following are not approved courses:

A. a course which is approved for prelicense training;

B. courses designed to prepare students for a license examination;

C. courses in mechanical office or business skills, including typing, speed reading, or use of calculators or other machines or equipment;

D. courses in sales promotion, including meetings held in conjunction with the general business of the licensee;

E. courses in motivation, salesmanship, psychology, time management, or communication; or

F. courses related to office management or intended to improve the operation of the licensee's business.

Subp. 8. **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 part 2800.6400, subpart 10. 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~~ sponsor requires a separate examination for each subject covered.

Subp. 9. [Unchanged.]

Subp. 10. **Professional designations.** Courses leading to the following professional designations shall automatically qualify for continuing education credit:

A. Certified Property Manager (CPM) offered by the Institute of Real Estate Management.

B. Member, Appraisal Institute (MAI) offered by the American Institute of Real Estate Appraisers.

C. Certified Commercial Investment Member (CCIM)

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offered by the Realtors National Marketing Insitute.

D. Society of Industrial Realtors (SIR) offered by the Society of Industrial Realtors.

E. Certified Mortgage Banker (CMB) offered by the Mortgage Bankers Association.

F. Senior Real Property Appraiser (SRPA) offered by the Society of Real Estate Appraisers.

G. Accredited Farm and Land Member (AFLM) offered by the Realtors Land Institute.

2800.7150 APPLICATION FOR COURSE APPROVAL FOR COURSES I, II, AND III.

The real estate education application for course approval for courses I, II, and III shall be in the form ~~in part 2800.9920~~ prescribed by the commissioner.

2800.7175 APPLICATION FOR COURSE APPROVAL FOR CONTINUING EDUCATION.

The real estate education application for course approval for continuing education shall be in the form ~~in part 2800.9935~~ prescribed by the commissioner.

2800.7200 COURSE APPROVAL.

Subpart 1. [Unchanged.]

Subp. 2. **Permitted course offerings.** Courses complying with Minnesota Statutes, chapter 82 and the rules adopted thereunder may be offered or sponsored by ~~schools~~ sponsors.

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

Subp. 3. [See Repealer.]

Subp. 4. **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:~~

~~A. the course title;~~

~~B. the date, time, and place of the course offering;~~

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~~C.--the-name,-address,-and-telephone-number-of-the sponsoring-entity;~~

~~D.--the-name,-address,-and-telephone-number-of-the course-coordinator;~~

~~E.--the-name,-address,-and-telephone-number-of-the instructor;~~

~~F.--the-name,-edition,-and-date-of-publication-of-the text-to-be-used,-if-applicable;~~

~~G.--a-detailed-outline-of-the-course-offering,-or-a statement-of-compliance-with-the-prescribed-outlines-for-course I,-II,-or-III;-and~~

~~H.--compliance-with-the-service-of-process-provisions of-Minnesota-Statutes,-section-82.31,-if-applicable.~~

Subp. 5. [See Repealer.]

Subp. 6. **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, ~~as-in-part-2800.9945~~ on the form prescribed by the commissioner, 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.

2800.7250 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-part 2800.9945~~ prescribed by the commissioner.

2800.7400 COURSE COORDINATOR.

Subpart 1. **Mandatory.** Each course of study shall have one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with Minnesota Statutes, chapter 82 and the rules adopted thereunder. ~~Schools~~ Sponsors 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

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illness.

Subp. 2. [Unchanged.]

Subp. 3. **Form for coordinator approval.** Application for approval must be submitted on the form ~~in part 2800.9915~~ prescribed by the commissioner.

Subp. 4. **Responsibilities.** A coordinator shall be responsible for:

A. to E. [Unchanged.]

F. 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~~ sponsor 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);

G. [Unchanged.]

H. attending workshops or instructional programs as reasonably required by the commissioner; and

I. ~~reporting on the form in part 2800.9930 the attendance of licensed students in courses II and III to the commissioner within 14 days of their completion of the course; and~~

~~J.~~ providing students with course completion certificates ~~as in part 2800.9910,~~ for courses I, II, and III, and continuing education courses.

2800.7450 APPLICATION FOR COORDINATOR APPROVAL.

The real estate education application for coordinator approval shall be in the form ~~in part 2800.9915~~ prescribed by the commissioner.

2800.7500 INSTRUCTORS.

Subpart 1. [Unchanged.]

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Subp. 2. **Qualifications.** The following provisions relate to the approval and qualification of instructors:

A. Applicants shall submit requests for instructor approval on the form ~~in part 2800.9925~~ prescribed by the commissioner for courses I, II, and III and the form ~~in part 2800.9940~~ prescribed by the commissioner for continuing education courses. Requests must be submitted at least 30 days prior to instruction in an approved course.

B. Applicants for Courses I, II and III shall be approved if they ~~achieve a rating of 70 points or higher based upon the scale~~ have the education and/or experience requirements set forth in part 2800.9905.

C. and D. [Unchanged.]

Subp. 3. [Unchanged.]

2800.7550 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 part 2800.9925~~ prescribed by the commissioner.

2800.7575 APPLICATION FOR INSTRUCTOR APPROVAL FOR CONTINUING EDUCATION.

The real estate education application for instructor approval for continuing education shall be in the form ~~in part 2800.9940~~ prescribed by the commissioner.

2800.7600 PROHIBITED PRACTICES FOR COORDINATORS AND INSTRUCTORS.

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

A. recommend or promote the services or practices of any particular real estate brokerage, franchise, coordinator, instructor, or ~~school~~ sponsor;

B. and C. [Unchanged.]

D. require students to participate in other programs or services offered by the ~~school~~ sponsor, coordinator, or instructor;

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E. to G. [Unchanged.]

Subp. 2. and 3. [Unchanged.]

2800.7900 FEES.

Fees for approved courses and related materials shall be reasonable and clearly identified to students. In the event that a course is canceled 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~~ sponsor policies regarding refunds shall govern.

2800.8100 CONFLICT OF INTEREST.

A course will not be approved if it is ~~offered~~ sponsored by a person who derives substantial income from the real estate brokerage business.

2800.8300 ADVERTISING COURSES.

Subpart 1. [Unchanged.]

Subp. 2. **Approval statement.** No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering may be circulated or distributed in this state unless one of the following ~~statement~~ statements is prominently displayed ~~on-the-cover-of-it~~:

For ~~initial~~ prelicense education courses, "This course has been approved by the Minnesota commissioner of commerce ~~pursuant to Minnesota Statutes, section 82.22, subdivision 6 for initial education courses,"~~ or for real estate prelicense education."

For continuing education courses, "This course has been approved by the Minnesota commissioner of commerce ~~pursuant to Minnesota Statutes, section 82.22, subdivision 13, relating to continuing real estate education~~ for real estate continuing education."

The preceding language need not be displayed on the cover of any out-of-state offering advertisement; however, it is the

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responsibility of the ~~school~~ sponsor to provide students with evidence that the course has been approved.

Subp. 3. [Unchanged.]

Subp. 4. Limitation on advertising. Courses may not be advertised prior to approval, unless the course is described in the advertising as "approval pending" and that is in fact the case.

2800.8400 NOTICE TO STUDENTS.

At the beginning of each approved offering, the following notice shall be handed out in printed form or shall be read to students: "This real estate educational offering is recognized by the commissioner of commerce as satisfying _____ hours of credit toward _____ (choose one, or more, of the following as is appropriate: prelicensing, postlicensing, or continuing) real estate education requirements pursuant to Minnesota Statutes, section 82.22. If you have any comments about this real estate offering, please mail them to the Commissioner of Commerce, 500 Metro Square Building, Saint Paul, Minnesota 55101."

2800.8500 AUDITS.

The commissioner reserves the right to audit subject offerings with or without notice to the ~~school~~ sponsor.

2800.8700 REPORTS TO COMMISSIONER.

Continuing education credits shall be reported by the licensee on the form ~~in part 2800.9950~~ prescribed by the commissioner.

Forms will not be accepted unless they reflect all 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~~ 30 of the year ~~in which the credits are~~ due. Forms ~~which~~ that are ~~mailed~~ postmarked no later than June 15 shall be deemed timely received if addressed to: ~~Real Estate~~ Licensing Unit, 500 Metro Square Building, Saint Paul, Minnesota 55101,

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~~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 required hours of continuing education credit.

2800.8750 CONTINUING EDUCATION COURSE VERIFICATION.

The real estate education continuing education course verification shall be in the form ~~in part 2800.9950~~ prescribed by the commissioner.

2800.9905 ~~RATING SCALE~~ QUALIFICATIONS FOR INSTRUCTORS.

~~Ratings for~~ Applicants seeking approval as instructors of courses I, II, and III must possess the following qualifications:

~~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;~~

A. a four-year real estate degree;

B. a four-year degree with three years full-time experience in the real estate industry;

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

D. a post-graduate degree and completion of 45 hours

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of continuing real estate education;

E. a two-year real estate degree and completion of 45 hours of continuing real estate education;

F. a two-year degree or certificate with five years full-time experience in the real estate industry;

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

H. eight years of recent experience in the subject area being taught.

Rules as Proposed (all new material)

2805.0100 DEFINITIONS.

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

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subp. 3. **Licensee.** "Licensee" means a person duly licensed under Minnesota Statutes, chapter 82.

Subp. 4. **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, directly or indirectly negotiates or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance on real estate, or represents himself or herself or otherwise holds himself or herself out as a licensed real estate broker or salesperson, either in connection with any transaction in which he or she directly or indirectly negotiates or offers or attempts to negotiate a loan, or in connection with the conduct of his or her ordinary business activities as a loan broker.

"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

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in question if the licensee does not receive a separate commission, fee, or other valuable consideration for this service.

Subp. 5. **Overpayment.** "Overpayment" means any payment of money in excess of a statutory fee or for a license for which a person does not qualify.

Subp. 6. **Override clause.** "Override clause" means a provision in a listing agreement or similar instrument allowing the broker to receive a commission when, after the listing agreement has expired, the property is sold to persons with whom a broker or salesperson had negotiated or exhibited the property prior to the expiration of the listing agreement.

Subp. 7. **Person.** "Person" means a natural person, firm, institution, partnership, corporation, or association.

Subp. 8. **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.

Subp. 9. **Property.** "Property" means real property or other property within the scope of Minnesota Statutes, chapter 82, unless the context clearly indicates otherwise.

Subp. 10. **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 subpart, "property" means the property that is the subject of the listing agreement in question.

Subp. 11. **Real estate broker or broker.** "Real estate broker" or "broker" as set forth in Minnesota Statutes, section 82.17, subdivision 4, clause (b) shall not apply to the originating, making, processing, selling, or servicing of a loan

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in connection with ordinary business activities by a mortgagee, lender, or servicer approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association.

Subp. 12. **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.

Subp. 13. **Sponsor.** "Sponsor" means a person offering or providing real estate education.

Subp. 14. **Business of financial planning.** "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. A person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," financial advisor," "investment counselor," "estate planner," "investment advisor," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

2805.0200 SCOPE OF APPLICATION.

Prior rules exclusively govern all suits, actions, prosecutions, or proceedings that 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

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these rules as to which review proceedings have not been instituted by the effective date of these rules is governed by prior rules.

2805.0300 COMPUTATION OF TIME.

Subpart 1. **Days.** Where the performance or doing of any act, duty, matter, payment, or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law, rule, or order, such time, except as otherwise provided in subpart 2, shall be computed so as to exclude the first and include the last day of any such prescribed or fixed period or duration of time. When the last day of such period falls on Sunday or on any day made a legal holiday, by the laws of this state or of the United States, such day shall be omitted from the computation.

Subp. 2. **Months.** When the lapse of a number of months before or after a certain day is required by law, rule, or order, the number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

2805.0400 NOTICE TO COMMISSIONER.

Subpart 1. **Mandatory.** Licensees shall notify the commissioner of the facts in subparts 2 to 4.

Subp. 2. **Civil judgment.** Licensees must notify the commissioner 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.

Subp. 3. **Disciplinary action.** The licensee must notify

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the commissioner in writing within ten days of the suspension or revocation of the licensee's real estate or other occupational license issued by this state or another jurisdiction.

Subp. 4. **Criminal offense.** The licensee must notify the commissioner in writing within ten days if the licensee is charged with, adjudged guilty of, or enters a plea of guilty or nolo contendere to a 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.

RENUMBERING. Renumber the parts in column A as the parts in column B.

Column A	Column B
2800.3100	2805.0500
2800.3200	2805.0600
2800.3300	2805.0700
2800.3400	2805.0800
2800.3500	2805.0900
2800.3600	2805.1000
2800.3700	2805.1100
2800.3800	2805.1200
2800.3900	2805.1300
2800.4000	2805.1400
2800.4100	2805.1500
2800.4200	2805.1600
2800.4300	2805.1700
2800.4400	2805.1800
2800.4500	2805.1900
2800.4600	2805.2000

REPEALER. Minnesota Rules, parts 2800.1600, subparts 1, 3, 4, and 5; 2800.2175; 2800.5500; 2800.6800, subparts 2 and 3; 2800.7200, subparts 3 and 5; 2800.9910; 2800.9915; 2800.9920; 2800.9925; 2800.9930; 2800.9935; 2800.9940; 2800.9945; 2800.9950; and 2800.9955 are repealed.

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STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Rules Relating to Cancellation, Nonrenewal and Renewal With Altered Terms of Commercial Insurance Policies

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1a, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 28th day of May 1986.

Jane Schaub

Jane Schaub

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Wausau, WI 54401

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Karen Langland, Government Affairs
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Paul Dwyer, Gen'l Counsel's Office
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Minneapolis, MN 55401

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Union Fidelity Life Insurance Co.
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Trevose, PA 19049

Sam Ruhle
Office of Administrative Hearings
400 Summit Bank Building
Minneapolis, MN 55415

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Farmington, CT 06032

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Pennsylvania Life Insurance Company
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Santa Monica, CA 90406

Peter S. Popovich

1300 Amhoist Tower
St. Paul, MN 55102

Phillips Legislative Service, Inc.
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5200 Willson Road, Suite 407
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Minneapolis, MN 55402

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Minnesota League of Credit Unions
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St. Paul, MN 55103

MN Motor Transport &
Permit Carriers Assn.
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Jean Dawson
Minn. Government Report
B-12 Press Room, State Capitol
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Minneapolis, MN 55416

Minn. Petroleum Council
386 N. Wabasha, Suite 1025
St. Paul, MN 55102

John Van Doorn
Minn. Retail Merchants Assoc.
180 Metro Square Bldg.
St. Paul, MN 55101

Dominic J. Sposeto
D[illegible]ic Sposeto & Associates
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Minneapolis, MN 55408

Fireman's Fund Emp. Ins. Co.
Contracts Department
Green Bay, WI 54344

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Hessian, McKasy & Soderberg
4700 IDS Center
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Peggy Jacobs
IDS Financial Serv., Inc. - Unit 53
IDS Tower
Minneapolis, MN 55474

Norbert A. McCrady
Independent Bankers of Minn.
7850 Metro Pkway., Suite 211
Bloomington, MN 55420

Rudy D. Broyles, CPCU
Insurance Services Office, Inc.
12 South Sixth Street - RM 1229
Minneapolis, MN 55402

Richard Schinler, President
Integrity Mutual Insurance Company
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Appleton, WI 54912

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1600 M Street NW
Washington, DC 20036

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Minneapolis, MN 55401

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Crum & Forster Corporation
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St. Paul, MN 55101

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St. Paul, MN 55113

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3500 IDS Center
Minneapolis, MN 55402-2213

Regulation Analyst
Alliance of American Insurers
1501 Woodfield Rd., Suite 400 West
Schaumberg, IL 60195-4980

Mr. Robert J. Demichelis
American Council of Life Insurance
1850 K Street NW
Washington, DC 20006

Frederick P. McGarvey
American Insurance Association
230 W. Monroe St.
Chicago, IL 60606

STATE REGISTER

STATE OF MINNESOTA



VOLUME 10, NUMBER 50

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B. a statement showing the parts of the application being responded or objected to showing specific reasons or facts to support the response or objection;

C. a proof of service showing that all other parties have been served, either personally or by first class mail, with a copy of the response or objection; and

D. if the state agency requests a hearing, the response or objection must include the request.

Subp. 5. **Hearing on application.** A hearing on the application will be conducted if the state agency requests a hearing or if the judge determines that a hearing is necessary to gather additional facts or evidence, or for a full and fair resolution of the issues arising from the application. The hearing shall take place on the first date available on the judge's calendar which is also agreeable to all parties. It shall be conducted pursuant to the procedures for conference contested cases, parts 1400.5100 to 1400.8300.

Subp. 6. **Stay of proceedings pending appeal.** In the event that an appeal from all or any part of the final agency decision in the contested case which gives rise to the application for expenses and attorney's fees has been taken to the appropriate court, all proceedings under this part shall be stayed and all time limits imposed shall be tolled pending a final judicial determination.

Subp. 7. **Decision of the administrative law judge.** Within 30 days following the close of the record in the proceeding for the award of expenses and attorney's fees, the administrative law judge shall issue a written order which shall also contain findings and conclusions. The order shall be served on all parties and the state agency. The original order and the rest of the record of the proceedings shall be filed with the state agency at the time the order is served.

APPLICATION. Pursuant to the provisions of Laws of Minnesota 1986, chapter 377, section 7, part 1400.8401 applies to all contested cases that are pending on or commenced after August 1, 1986.

Department of Commerce

Proposed Rules Relating to Cancellation of Commercial Policies

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and does not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30 day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Sections 45.023 and 61A.03. Additionally a Statement of Need and Reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

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 Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice. Copies of this Notice and proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2700.2400 SCOPE.

Except as specifically limited in part 2700.2430, parts 2700.2400 to ~~2700.2450~~ 2700.2440 apply to all commercial liability and/or property insurance policies issued by companies licensed to do business in this state except ~~workers' compensation insurance, employers' liability,~~ ocean marine insurance, accident and health insurance, excess insurance, surplus line insurance, and reinsurance.

2700.2410 MIDTERM CANCELLATION.

Subpart 1. **Reason for cancellation.** No insurer may cancel a policy of commercial liability and/or property insurance during the term of the policy, except for one or more of the following reasons:

A. to H. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

2700.2420 NONRENEWAL.

Subpart 1. **Notice required.** ~~An insurer shall renew the policy, unless~~ At least 30 days prior to the date of expiration provided in the policy, a notice of intention not to renew the policy beyond the agreed expiration date ~~is~~ must be made to the policyholder by the insurer. If the notice is not given at least 30 days prior to the date of expiration provided in the policy, the policy shall continue in force until 30 days after a notice of intent not to renew is received by the policyholder.

Subp. 2. [Unchanged.]

2700.2430 RENEWAL WITH ALTERED RATES.

Subpart 1. **General.** ~~Subject to subpart 2, if the insurer offers or purports to renew the policy at less favorable terms as to the dollar amount of coverage or deductibles, higher rates, and/or higher rating plan, the new terms, the new rates and/or rating plan may take effect on the renewal date if the insurer has sent to the policyholder notice of the new terms, new rates and/or rating plan at least 30 days prior to the expiration date. If the insurer has not so notified the policyholder, the policyholder may elect to cancel the renewal policy within the 30-day period after receipt of the notice. Earned premium for the period of coverage, if any, shall be calculated pro rata.~~

If an insurance company licensed to do business in this state offers or purports to offer to renew any commercial liability and/or property insurance policy at less favorable terms as to the dollar amount of coverage or deductibles, higher rates, and/or higher rating plan, the new terms, the new rates and/or rating plan may take effect on the renewal date of the policy if the insurer has sent to the policyholder notice of the new terms, new rates and/or rating plan at least 30 days prior to the expiration date. If the insurer has not so notified the policyholder, the policyholder may elect to cancel the renewal policy within the 30-day period after receipt of the notice. Earned premium for the period of coverage, if any, shall be calculated pro rata upon the prior rate. This subdivision does not apply to ocean marine insurance, accident and health insurance, and reinsurance.

Subp. 2. [Unchanged.]

Department of Commerce

Proposed Rules Relating to Real Estate Broker Licensing and Education

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21.

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.

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

In the Matter of the Proposed Amendment of Rules Relating to Cancellation, Nonrenewal and Renewal With Altered Terms of Commercial Insurance Policies

STATEMENT OF NEED AND REASONABLENESS

On May 12, 1986 rules were adopted pertaining to the Cancellation, Nonrenewal and Renewal With Altered Terms of Commercial Insurance Policies. A Statement of Need and Reasonableness pertaining to those rules is attached hereto and incorporated by reference as a part of this Statement of Need and Reasonableness. The authority for the adoption of these amendments to the Cancellation, Nonrenewal and Renewal With Altered Terms of Commercial Insurance Policies Rules is identical to that stated in the previous Statement of Need and Reasonableness. Since the promulgation of those rules several events have occurred and various inconsistencies in the rules have been brought to the department's attention which require the amendment of those rules.

On May 25, 1986 Senate File 2078 was adopted as Chapter 455 Laws of Minnesota 1986. Section 58 and 59 of that Chapter affected those rules. Section 58 enacted into law, with some modifications, portions of the rules (part 2700.2430) that dealt with the Renewal With Altered Terms. In addition, Section 59 of that chapter included within the scope of those rules workers' compensation insurance which had previously been exempt. Accordingly amendments of the rules to conform with the statutory changes are necessary.

In addition when the original rules were promulgated it was always contemplated that all commercial policies including both liability and property insurance or combinations of both would be within the scope of the rules. The term commercial policies was used in the title of the rule rather than any limiting declaration that the rules applied only to liability policies. However, because the greater concern at that moment was liability policies references to liability policies unfortunately were used which implied that the rules were intended to only apply to those policies. Therefore the rules need to be amended to make clear that property insurance is within their scope. As indicated by the language of the statutory changes, that is the Legislature's intent as well. A copy of Chapter 455 is attached to this Statement to Need and Reasonableness and incorporated by reference.

Part 2700.2400 Scope.

This rule is amended to reflect the statutory changes brought about by Chapter 455. Section 59 of Chapter 455 includes within the scope of these rules workers' compensation insurance which was previously excluded from the rules. Employer's liability insurance is also proposed for removal from the exclusion because it was previously excluded only because of its similarity and its relationship to workers' compensation insurance which required that if one were excluded the other be excluded as well. Since the legislature has indicated that workers' compensation insurance should be included within the scope of the rules the same rationale that required that if one were excluded the other be excluded would apply to remove the exclusion.

The language found in the statutory provision pertaining to renewal with altered rates excludes only ocean marine insurance, accident and health insurance and reinsurance. The rules in addition exclude excess insurance and surplus lines insurance. Therefore reference has to be made in the Scope sections of the distinction between the scope of part 2700.2430 which is a verbatim recitation of the statute and the rest of the rules.

Since it was always the intent of the department to have the rules apply to all commercial policies - liability and/or property insurance policies - the language "and/or property" is added to make that completely clear. For all of the reasons stated in the original Statement of Need and Reasonableness notice of cancellation or nonrenewal is required for both liability or property insurance with equal merit.

Part 2700.2410 Midterm Cancellation

For the reasons stated in the foregoing discussion of part 2700.2400 the words "and/or property" are added to this part.

Part 2700.2420 Nonrenewal

The rule as it currently stands literally extends for an additional policy period - likely an additional year - the policy at its existing rate for the mere failure of an insurer to provide 30 days notice, prior to the policy expiration date, of its intent not to renew. This was never the department's intention in promulgating this rule. The intent of the department was to give the insured adequate notice to allow them to secure other coverage; not to in effect impose a penalty on the insurer for failure to meet the 30 day prior notice requirement.

It was the department's intent to require a 30 day notice. Once that 30 day notice requirement was complied with the insurer could proceed with nonrenewal. This is the way the renewal with altered terms section is stated and this section should also have been consistent with that. Therefore the section is being amended to carry out the department's intention, namely to require a 30 day notice, not to force the company to continue to insure if it fails to meet that requirement.

Part 2700.2430 Renewal With Altered Terms

This section is replaced with the statutory language from Chapter 455. While it is often not appropriate to repeat statutory language in a rule since these rules deal with all aspects of Cancellation, Nonrenewal and Renewal With Altered Terms of Commercial Policies it would be simpler for people who have to comply with these requirements to have all of the requirements located in one place and not be required to refer from the rules to the statute and back again depending upon what their situation would be. Accordingly the statute is being incorporated in these rules for the purpose of easy reference for the public.

Small Business Consideration

The small business considerations stated in the original Statement of Need and Reasonableness is still applicable to the amendment to the rules. The department reviewed the amendments to the rules in the same manner as stated in that discussion of small business considerations. Therefore the following discussion of the small business consideration of the rules will be nearly identical to that in the original Statement of Need and Reasonableness.

As is the case with most rules governing the conduct of insurance companies, especially trade practices, the intent is to benefit the policyholder. Every company no matter if they qualify as a small business or not must be subject to the same requirements or the group intended to be protected, the policyholder, would find that they have less rights if they deal with a company that qualifies as a small business then if they were dealing with a company that did not. While this may result in a lesser burden upon companies that qualify as small businesses it would defeat the purpose of protection of the policyholder. It might also have a negative effect upon the small business insurance company in that their policyholders would preceive that they have less protection then if they purchase their insurance from a non-small insurance company. The result of reducing the requirements would be loss of business rather than a reduction in regulatory burden for insurers that are small businesses. In promulgating these rules all of the considerations required by Minnesota Statute § 14.115 were addressed.

In regard to the considerations under subpart 2, item A would not be applicable since there are no compliance or reporting requirements. In the instance where "compliance" under these rules might be deemed to be the notice period, if a small business could use a period of time less than thirty days in which to give the required notices this would be counter productive and not appropriate to the intention of the rules.

For the reasons discussed in the preceding paragraphs changing schedules or deadlines for compliance or reporting requirements as discussed in item B would defeat the purpose of the rules and would probably be counter-productive for small businesses.

Item C would not be applicable for the reasons previously discussed in regard to items A and B.

Item D would not apply because of the nature of the rules. There are no design or operational standards in the rules.

The small businesses that are probably most affected by these rules are not insurers but rather the small businesses that gain protections and rights in regard to their insurance policies they did not have before. To give any insurance companies exemptions from these rules because they are small businesses would be to reduce the rights of small businesses that are policyholders. The department concluded that the intent of the rules was protection of policyholders, small businesses or not, and therefore all insurance companies, be they small businesses or not, must meet the same standards to insure equal protection of all their policyholders.

Small businesses have been a part of the promulgation of these rules since their inception. It was the complaints of many of these small businesses as to midterm cancellations, inadequate notice of nonrenewals, and the problems that they brought to the attention of the department that gave rise to these rules. The input of the various businesses be they small businesses or not, that are affected by midterm cancellations and nonrenewals was a part of this process even when not directly solicited. The department has had a number of articles and stories reported in the newspapers both in regard to rules themselves and the problem of midterm cancellation, which resulted in further contact with various businesses, small and large, explaining what the problems are and the kind of relief wanted. The problems and the rules were widely reported in the news media. The department is aware of no practical way of giving greater notification than has already occurred.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Cancellation of Commercial Insurance Policies	CERTIFICATE OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Alan I. Gilbert, 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.

Alan I. Gilbert
Special Assistant Attorney General

Dated: 8/7/86.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Cancellation of Commercial Insurance Policies

AFFIDAVIT RE NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Richard G. Gomsrud, being first duly sworn, deposes and says:

That he is Department Counsel for the Department of Commerce.

That part of his duties is the promulgation and adoption of departmental rules, including those captioned above.

That to date, no person has requested notice of submission of the rules in the above-entitled matter to the Attorney General.

Richard G. Gomsrud
Department Counsel, Department of Commerce

Subscribed and sworn to before me this
25th day of July 1986.

Nancy I. Link

NANCY I. LINK
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES DECEMBER 3, 1990

SF-00006-04

DEPARTMENT : of Commerce

PHONE : 296-5689

DATE : 8/6/86

TO : Judith Wehmeier

STATE OF MINNESOTA

Office Memorandum

RECEIVED
AUG 07 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

FROM : Richard G. Gomsrud
Department Counsel

SUBJECT : Cancellation, Non Renewal & Renewal w. Th altered Terms of Comml Ins. Policies

Enclosed are copies of the following materials regarding the above captioned rules (only those items with a circled number are enclosed):

~~1.~~ Notice of Intent to Solicit Outside Opinion (2000.0400 subpart 1 B)

~~2.~~ Written material received as a result of Notice to Solicit Outside Opinion (2000.0400 subpart 1 B)

(3.) Mailing List Certificate (2000.0400 subpart 1 E)

(4.) Statement of Need & Reasonableness (2000.0400 subpart 1 G)

(5.) Order for Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 1 C)

(6.) Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 2)

(7.) Affidavit of Mailing Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 3)

(8.) Copy of Notice of Intent to Adopt Rule Without Public Hearing and rules as published in the State Register (2000.0400 subpart 4)

(9.) Written Comments on Rule (2000.0400 subpart 1 I)

(10.) Findings of Fact (if applicable) (2000.0400 subpart 1 F)

~~11.~~ Affidavit of Mailing Notice of Submission to Attorney General (2000.0400 subpart 1 K); or

12. Affidavit that no request for Notice of Submission to Attorney General were received

13. Original and three copies of Rule as adopted (2000.0400 subpart 5)

14. Two copies of the Order Adopting Rule (2000.0400 subpart 6)

15. Certificate of Compliance With Rulemaking Procedure (2000.0400 subpart 1 J).

SF-00006-04

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : of Commerce

PHONE : 296-5689

DATE : 7/25/86

TO : Charles Wheelus

FROM : Richard G. Gomsrud
Department Counsel

SUBJECT : Cancellation, Non Renewal & Renewal with Altered Terms of Comm'l Lns. Polcs

Enclosed are copies of the following materials regarding the above captioned rules (only those items with a circled number are enclosed):

~~1.~~ Notice of Intent to Solicit Outside Opinion (2000.0400 subpart 1 B)

~~2.~~ Written material received as a result of Notice to Solicit Outside Opinion (2000.0400 subpart 1 B)

(3.) Mailing List Certificate (2000.0400 subpart 1 E)

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