

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** H.F. 2439

**DATE:** March 12, 2004

**Version:** First engrossment

**Authors:** Brod and others

**Subject:** Real estate law and regulation of real estate agents

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### Overview

Article 1 of this bill makes a variety of changes in statutes involving real estate transactions and real estate law. Article 2 recodifies chapter 82 of statutes, which is the chapter under which the commissioner of commerce regulates real estate agents.

#### Section

#### Article 1

- 1 **1 Powers of commissioner.** Provides that a mortgage originator that unreasonably delays a closing (for instance, to get a higher interest rate) is subject to the same liability to the borrower that applies to other mortgage lenders.
- 2 **Generally.** Makes the "table funding" law that applies to real estate agents also apply to mortgage originators. "Table funding" refers to the closer having "on the table" at a real estate closing secure funding from the lender. The current definition of table funding in chapter 58, which is not used anywhere, is repealed later in this bill.
- 3 **Contract provisions.** Requires mortgage originators to more fully disclose to the borrower the right to rescind the contract with the mortgage originator, and the procedure for doing so.
- 4 **Unreasonable delay in mortgage loan closing.** Provides a penalty for a lender who causes unreasonable delay in a loan closing by not returning calls, or adding new requirements, or not approving the loan in a reasonable time. Provides for out-of-pocket expenses and, in addition \$500 if an interest rate or discount agreement expires before closing.

## Section

- 5        **Trust account.** Requires that a mortgage originator's trust account be controlled by a person who is not affiliated with the mortgage originator.
- 6        **Contents.** Changes language regarding the disclosures required to be made by the seller to a prospective purchaser of a home.
- 7        **Effect on common law.** Provides that limitations on disclosures in current Minnesota Statutes, section 513.56, modify common law disclosure duties.
- 8        **Applicability.** Permits the buyer and seller of real estate in a CIC (common interest community, which includes condominiums, townhouses, cooperative housing, and planned unit developments) to agree to waive the buyer's ten-day right of rescission on residential property, but only if the seller does not condition the sale on the buyer agreeing to the waiver. States when the disclosure statement required on CIC property is considered delivered to the prospective buyer.
- 9        **Disclosure statement; general provisions.** Same as section 6 on receipt of disclosure statement.
- 10       **Purchaser's right to cancel.** Same as section 6 on receipt of disclosure statement and ten-day right of rescission.
- 11       **Resale of units.** Conforming change on receipt of disclosure statement.
- 12       **Purchaser's right to cancel.** Same as section 6 on receipt of disclosure and ten-day right of rescission.
- 13       **Law prevails over contract; procedure; conditions.** Permits a purchase agreement to be cancelled under the new alternative procedure provided in section 12 of this bill.
- 14       **Declaratory cancellation of purchase agreement.** Provides a quicker and simpler method of canceling a residential purchase agreement that has not been complied with. The current procedure takes 30 days, and this new alternative procedure would take 10 days. Either the buyer or seller may use this procedure; only the seller may use the current procedure.
- 15       **Repealer.** Repeals a definition of table funding, which is no longer necessary given the change made by section 2 of this bill.
- 16       **Effective date.** Makes all sections effective August 1, 2004. Provides that section 12 applies to purchase agreements entered into on or after that date.

## Article 2

This article recodifies chapter 82, which regulates real estate agents. The main changes involve incorporating current commerce department rules into the statutes and repealing the rules. There is a revisor instruction at the end to rearrange chapter 82. This article also makes miscellaneous changes not in current statutes or rules.