1.1 moves to amend H.F. No. 1031 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "ARTICLE 1

1.4 COMMERCE FINANCE

1.5 Section 1. APPROPRIATIONS.

1.6 The sums shown in the columns marked "Appropriations" are appropriated to the agencies
1.7 and for the purposes specified in this article. The appropriations are from the general fund,
1.8 or another named fund, and are available for the fiscal years indicated for each purpose.
1.9 The figures "2022" and "2023" used in this article mean that the appropriations listed under
1.10 them are available for the fiscal year ending June 30, 2022, or June 30, 2023, respectively.
1.11 "The first year" is fiscal year 2022. "The second year" is fiscal year 2023. "The biennium"
1.12 is fiscal years 2022 and 2023. If an appropriation in this act is enacted more than once in
1.13 the 2021 legislative session, the appropriation must be given effect only once.

1.14 APPROPRIATIONS

1.15 Available for the Year

1.16 Ending June 30

1.17 2022 2023

1.18 Sec. 2. DEPARTMENT OF COMMERCE

1.19 Subdivision 1. Total Appropriation $ 27,603,000 $ 26,920,000

1.20 Appropriations by Fund

1.21 2022 2023

1.22 General 24,267,000 24,061,000

1.23 Special Revenue 2,570,000 2,093,000

1.24 Workers’ Compensation Fund 766,000 766,000
The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. Financial Institutions

<table>
<thead>
<tr>
<th>Appropriations by Fund</th>
<th>1,923,000</th>
<th>1,941,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>1,923,000</td>
<td>1,941,000</td>
</tr>
</tbody>
</table>

(a) $400,000 each year is for a grant to Prepare and Prosper to develop, market, evaluate, and distribute a financial services inclusion program that (1) assists low-income and financially underserved populations to build savings and strengthen credit, and (2) provides services to assist low-income and financially underserved populations to become more financially stable and secure. Money remaining after the first year is available for the second year.

(b) $254,000 each year is to administer the requirements of Minnesota Statutes, chapter 58B.

Subd. 3. Administrative Services

| 9,346,000 | 8,821,000 |

(a) $392,000 in the first year and $401,000 in the second year are for additional compliance efforts with unclaimed property. The commissioner may issue contracts for these services.

(b) $5,000 each year is for Real Estate Appraisal Advisory Board compensation pursuant to Minnesota Statutes, section 82B.073, subdivision 2a.

(c) $353,000 each year is for system modernization and cybersecurity upgrades for the unclaimed property program.
3.1 (d) $564,000 each year is for additional operations of the unclaimed property program.

3.3 (e) $832,000 in the first year and $208,000 in the second year are for IT system modernization. The base in fiscal year 2024 and beyond is $0.

3.7 Subd. 4. **Telecommunications**

<table>
<thead>
<tr>
<th>Appropriations by Fund</th>
<th>3,443,000</th>
<th>3,183,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>1,073,000</td>
<td>1,090,000</td>
</tr>
<tr>
<td>Special Revenue</td>
<td>2,370,000</td>
<td>2,093,000</td>
</tr>
</tbody>
</table>

3.11 $2,370,000 in the first year and $2,093,000 in the second year are from the telecommunications access Minnesota fund account in the special revenue fund for the following transfers:

3.16 (1) $1,620,000 each year is to the commissioner of human services to supplement the ongoing operational expenses of the Commission of Deaf, DeafBlind, and Hard-of-Hearing Minnesotans. This transfer is subject to Minnesota Statutes, section 16A.281;

3.23 (2) $290,000 each year is to the chief information officer for the purpose of coordinating technology accessibility and usability;

3.27 (3) $410,000 in the first year and $133,000 in the second year are to the Legislative Coordinating Commission for captioning of legislative coverage. This transfer is subject to Minnesota Statutes, section 16A.281;

3.32 Notwithstanding any law to the contrary, the commissioner of management and budget must determine whether the expenditures authorized...
under this clause are eligible uses of federal funding received under the Coronavirus State Fiscal Recovery Fund or any other federal funds received by the state under the American Rescue Plan Act, Public Law 117-2. If the commissioner of management and budget determines an expenditure is eligible for funding under Public Law 117-2, the amount of the eligible expenditure is appropriated from the account where those amounts have been deposited and the corresponding Telecommunications Access Minnesota Fund amounts appropriated under this clause are canceled to the Telecommunications Access Minnesota Fund; and

(4) $50,000 each year is to the Office of MN.IT Services for a consolidated access fund to provide grants or services to other state agencies related to accessibility of their web-based services.

### Subd. 5. Enforcement

<table>
<thead>
<tr>
<th>Appropriations by Fund</th>
<th>6,231,000</th>
<th>5,632,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>5,825,000</td>
<td>5,426,000</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>206,000</td>
<td>206,000</td>
</tr>
<tr>
<td>Special Revenue Fund</td>
<td>200,000</td>
<td></td>
</tr>
</tbody>
</table>

(a) $283,000 in the first year and $286,000 in the second year are for health care enforcement.

(b) $201,000 each year is from the workers' compensation fund.

(c) $5,000 each year is from the workers' compensation fund for insurance fraud specialist salary increases.
(d) $200,000 in the first year is from the auto
theft prevention account in the special revenue
fund, notwithstanding Minnesota Statutes,
section 297I.11, subdivision 2, for the catalytic
converter theft prevention pilot project. This
balance does not cancel but is available in the
second year.

(e) $190,000 in the first year is from the
general fund for the catalytic converter theft
prevention pilot project. This balance does not
cancel but is available in the second year. The
general fund base for this project in fiscal year
2024 and fiscal year 2025 is $92,000.

(f) $300,000 in the first year is transferred
from the consumer education account in the
special revenue fund to the general fund.
$300,000 in the first year is to the
commissioner of education to issue grants of
$150,000 each year to the Minnesota Council
on Economic Education. This balance does
not cancel but is available in the second year.

Subd. 6. **Insurance**

<table>
<thead>
<tr>
<th>Appropriations by Fund</th>
<th>6,660,000</th>
<th>7,343,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>6,100,000</td>
<td>6,783,000</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>560,000</td>
<td>560,000</td>
</tr>
</tbody>
</table>

(a) $656,000 in the first year and $671,000 in
the second year are for health insurance rate
review staffing.

(b) $421,000 in the first year and $431,000 in
the second year are for actuarial work to
prepare for implementation of principle-based
reserves.
(c) $30,000 in fiscal year 2022 is to pay for two years of membership dues for Minnesota to the National Conference of Insurance Legislators.

(d) $428,000 in the first year and $432,000 in the second year are for licensing activities under Minnesota Statutes, chapter 62W. Of this amount, $246,000 each year must be used only for staff costs associated with two enforcement investigators to enforce Minnesota Statutes, chapter 62W.

(e) $560,000 each year is from the workers' compensation fund.

(f) $197,000 in the first year is to establish the Prescription Drug Affordability Board under Minnesota Statutes, section 62J.87. Following the first meeting of the board and prior to June 30, 2022, the commissioner shall transfer any funds remaining from this appropriation to the board.

(g) $358,000 in the second year is to the Prescription Drug Affordability Board established under Minnesota Statutes, section 62J.87, for implementation of the Prescription Drug Affordability Act.

(h) $456,000 in the second year is to the attorney general's office for the enforcement of the Prescription Drug Affordability Act.

Sec. 3. CANCELLATION; FISCAL YEAR 2021.

$1,220,000 of the fiscal year 2021 general fund appropriation under Laws 2019, First Special Session chapter 7, article 1, section 6, subdivision 3, is canceled.

EFFECTIVE DATE. This section is effective the day following final enactment.
Sec. 4. DEPARTMENT OF COMMERCE; APPROPRIATION.

(a) $4,000 in fiscal year 2021 is appropriated from the workers' compensation fund to the commissioner of commerce for insurance fraud specialist salary increases.

(b) $97,000 in fiscal year 2021 is appropriated from the general fund to the commissioner of commerce for enforcement.

EFFECTIVE DATE. This section is effective the day following final enactment.

ARTICLE 2
PRESCRIPTION DRUG AFFORDABILITY BOARD

Section 1. [62J.85] CITATION.

Sections 62J.85 to 62J.95 may be cited as the "Prescription Drug Affordability Act."

Sec. 2. [62J.86] DEFINITIONS.

Subdivision 1. Definitions. For the purposes of sections 62J.85 to 62J.95, the following terms have the meanings given them.


Subd. 3. Biologic. "Biologic" means a drug that is produced or distributed in accordance with a biologies license application approved under Code of Federal Regulations, title 42, section 447.502.

Subd. 4. Biosimilar. "Biosimilar" has the meaning provided in section 62J.84, subdivision 2, paragraph (b).

Subd. 5. Board. "Board" means the Prescription Drug Affordability Board established under section 62J.87.

Subd. 6. Brand name drug. "Brand name drug" has the meaning provided in section 62J.84, subdivision 2, paragraph (c).

Subd. 7. Generic drug. "Generic drug" has the meaning provided in section 62J.84, subdivision 2, paragraph (c).

Subd. 8. Group purchaser. "Group purchaser" has the meaning given in section 62J.03, subdivision 6, and includes pharmacy benefit managers as defined in section 62W.02, subdivision 15.

Subd. 9. Manufacturer. "Manufacturer" means an entity that:
8.1 (1) engages in the manufacture of a prescription drug product or enters into a lease with
another manufacturer to market and distribute a prescription drug product under the entity's
own name; and

8.2 (2) sets or changes the wholesale acquisition cost of the prescription drug product it
manufacturers or markets.

8.6 Subd. 10. Prescription drug product. "Prescription drug product" means a brand name
drug, a generic drug, a biologic, or a biosimilar.

8.8 Subd. 11. Wholesale acquisition cost or WAC. "Wholesale acquisition cost" or "WAC"
has the meaning given in United States Code, title 42, section 1395W-3a(c)(6)(B).

8.10 Sec. 3. [62J.87] PRESCRIPTION DRUG AFFORDABILITY BOARD.

8.11 Subdivision 1. Establishment. The commissioner of commerce shall establish the
Prescription Drug Affordability Board, which shall be governed as a board under section
15.012, paragraph (a), to protect consumers, state and local governments, health plan
companies, providers, pharmacies, and other health care system stakeholders from
unaffordable costs of certain prescription drugs.

8.16 Subd. 2. Membership. (a) The Prescription Drug Affordability Board consists of nine
members appointed as follows:

8.18 (1) seven voting members appointed by the governor;

8.19 (2) one nonvoting member appointed by the majority leader of the senate; and

8.20 (3) one nonvoting member appointed by the speaker of the house.

8.21 (b) All members appointed must have knowledge and demonstrated expertise in
pharmaceutical economics and finance or health care economics and finance. A member
must not be an employee of, a board member of, or a consultant to a manufacturer or trade
association for manufacturers or a pharmacy benefit manager or trade association for
pharmacy benefit managers.

8.26 (c) Initial appointments shall be made by January 1, 2022.

8.27 Subd. 3. Terms. (a) Board appointees shall serve four-year terms, except that initial
appointees shall serve staggered terms of two, three, or four years as determined by lot by
the secretary of state. A board member shall serve no more than two consecutive terms.

8.30 (b) A board member may resign at any time by giving written notice to the board.
Subd. 4. Chair; other officers. (a) The governor shall designate an acting chair from the members appointed by the governor. The acting chair shall convene the first meeting of the board.

(b) The board shall elect a chair to replace the acting chair at the first meeting of the board by a majority of the members. The chair shall serve for one year.

(c) The board shall elect a vice-chair and other officers from its membership as it deems necessary.

Subd. 5. Staff; technical assistance. (a) The board shall hire an executive director and other staff, who shall serve in the unclassified service. The executive director must have knowledge and demonstrated expertise in pharmacoeconomics, pharmacology, health policy, health services research, medicine, or a related field or discipline. The board may employ or contract for professional and technical assistance as the board deems necessary to perform the board's duties.

(b) The attorney general shall provide legal services to the board.

Subd. 6. Compensation. The board members shall not receive compensation but may receive reimbursement for expenses as authorized under section 15.059, subdivision 3.

Subd. 7. Meetings. (a) Meetings of the board are subject to chapter 13D. The board shall meet publicly at least every three months to review prescription drug product information submitted to the board under section 62J.90. If there are no pending submissions, the chair of the board may cancel or postpone the required meeting. The board may meet in closed session when reviewing proprietary information as determined under the standards developed in accordance with section 62J.91, subdivision 4.

(b) The board shall announce each public meeting at least two weeks prior to the scheduled date of the meeting. Any materials for the meeting shall be made public at least one week prior to the scheduled date of the meeting.

(c) At each public meeting, the board shall provide the opportunity for comments from the public, including the opportunity for written comments to be submitted to the board prior to a decision by the board.

Sec. 4. [62J.88] PRESCRIPTION DRUG AFFORDABILITY ADVISORY COUNCIL.

Subdivision 1. Establishment. The governor shall appoint a 12-member stakeholder advisory council to provide advice to the board on drug cost issues and to represent stakeholders' views. The members of the advisory council shall be appointed based on their
knowledge and demonstrated expertise in one or more of the following areas: the pharmaceutical business; practice of medicine; patient perspectives; health care cost trends and drivers; clinical and health services research; and the health care marketplace.

Subd. 2. Membership. The council’s membership shall consist of the following:

1. two members representing patients and health care consumers;
2. two members representing health care providers;
3. one member representing health plan companies;
4. two members representing employers, with one member representing large employers and one member representing small employers;
5. one member representing government employee benefit plans;
6. one member representing pharmaceutical manufacturers;
7. one member who is a health services clinical researcher;
8. one member who is a pharmacologist; and
9. one member representing the commissioner of health with expertise in health economics.

Subd. 3. Terms. (a) The initial appointments to the advisory council shall be made by January 1, 2022. The initial appointed advisory council members shall serve staggered terms of two, three, or four years determined by lot by the secretary of state. Following the initial appointments, the advisory council members shall serve four-year terms.

(b) Removal and vacancies of advisory council members shall be governed by section 15.059.

Subd. 4. Compensation. Advisory council members may be compensated according to section 15.059.

Subd. 5. Meetings. Meetings of the advisory council are subject to chapter 13D. The advisory council shall meet publicly at least every three months to advise the board on drug cost issues related to the prescription drug product information submitted to the board under section 62J.90.

Subd. 6. Exemption. Notwithstanding section 15.059, the advisory council shall not expire.
Sec. 5. [62J.89] CONFLICTS OF INTEREST.

Subdivision 1. Definition. For purposes of this section, "conflict of interest" means a financial or personal association that has the potential to bias or have the appearance of biasing a person's decisions in matters related to the board, the advisory council, or in the conduct of the board's or council's activities. A conflict of interest includes any instance in which a person, a person's immediate family member, including a spouse, parent, child, or other legal dependent, or an in-law of any of the preceding individuals, has received or could receive a direct or indirect financial benefit of any amount deriving from the result or findings of a decision or determination of the board. For purposes of this section, a financial benefit includes honoraria, fees, stock, the value of the member's, immediate family member's, or in-law's stock holdings, and any direct financial benefit deriving from the finding of a review conducted under sections 62J.85 to 62J.95. Ownership of securities is not a conflict of interest if the securities are: (1) part of a diversified mutual or exchange traded fund; or (2) in a tax-deferred or tax-exempt retirement account that is administered by an independent trustee.

Subd. 2. General. (a) Prior to the acceptance of an appointment or employment, or prior to entering into a contractual agreement, a board or advisory council member, board staff member, or third-party contractor must disclose to the appointing authority or the board any conflicts of interest. The information disclosed shall include the type, nature, and magnitude of the interests involved.

(b) A board member, board staff member, or third-party contractor with a conflict of interest with regard to any prescription drug product under review must recuse themselves from any discussion, review, decision, or determination made by the board relating to the prescription drug product.

(c) Any conflict of interest must be disclosed in advance of the first meeting after the conflict is identified or within five days after the conflict is identified, whichever is earlier.

Subd. 3. Prohibitions. Board members, board staff, or third-party contractors are prohibited from accepting gifts, bequeaths, or donations of services or property that raise the specter of a conflict of interest or have the appearance of injecting bias into the activities of the board.
Sec. 6. [62J.90] PRESCRIPTION DRUG PRICE INFORMATION; DECISION TO CONDUCT COST REVIEW.

Subdivision 1. Drug price information from the commissioner of health and other sources. (a) The commissioner of health shall provide to the board the information reported to the commissioner by drug manufacturers under section 62J.84, subdivisions 3, 4, and 5. The commissioner shall provide this information to the board within 30 days of the date the information is received from drug manufacturers.

(b) The board shall subscribe to one or more prescription drug pricing files, such as Medispan or FirstDatabank, or as otherwise determined by the board.

Subd. 2. Identification of certain prescription drug products. (a) The board, in consultation with the advisory council, shall identify the following prescription drug products:

(1) brand name drugs or biologics for which the WAC increases by more than ten percent or by more than $10,000 during any 12-month period or course of treatment if less than 12 months, after adjusting for changes in the Consumer Price Index (CPI);

(2) brand name drugs or biologics that have been introduced at a WAC of $30,000 or more per calendar year or per course of treatment;

(3) biosimilar drugs that have been introduced at a WAC that is not at least 15 percent lower than the referenced brand name biologic at the time the biosimilar is introduced; and

(4) generic drugs for which the WAC:

(i) is $100 or more, after adjusting for changes in the Consumer Price Index (CPI), for:

(A) a 30-day supply lasting a patient for a period of 30 consecutive days based on the recommended dosage approved for labeling by the United States Food and Drug Administration (FDA);

(B) a supply lasting a patient for fewer than 30 days based on recommended dosage approved for labeling by the FDA; or

(C) one unit of the drug if the labeling approved by the FDA does not recommend a finite dosage; and

(ii) is increased by 200 percent or more during the immediate preceding 12-month period, as determined by the difference between the resulting WAC and the average of the WAC reported over the preceding 12 months, after adjusting for changes in the Consumer Price Index (CPI).
(b) The board, in consultation with the advisory council, shall identify prescription drug products not described in paragraph (a) that may impose costs that create significant affordability challenges for the state health care system or for patients, including but not limited to drugs to address public health emergencies.

(c) The board shall make available to the public the names and related price information of the prescription drug products identified under this subdivision, with the exception of information determined by the board to be proprietary under the standards developed by the board under section 62J.91, subdivision 4.

Subd. 3. Determination to proceed with review. (a) The board may initiate a cost review of a prescription drug product identified by the board under this section.

(b) The board shall consider requests by the public for the board to proceed with a cost review of any prescription drug product identified under this section.

(c) If there is no consensus among the members of the board on whether or not to initiate a cost review of a prescription drug product, any member of the board may request a vote to determine whether or not to review the cost of the prescription drug product.

Sec. 7. [62J.91] PRESCRIPTION DRUG PRODUCT REVIEWS.

Subdivision 1. General. Once a decision by the board has been made to proceed with a cost review of a prescription drug product, the board shall conduct the review and make a determination as to whether appropriate utilization of the prescription drug under review, based on utilization that is consistent with the United States Food and Drug Administration (FDA) label or standard medical practice, has led or will lead to affordability challenges for the state health care system or for patients.

Subd. 2. Review considerations. In reviewing the cost of a prescription drug product, the board may consider the following factors:

1. the price at which the prescription drug product has been and will be sold in the state;

2. the average monetary price concession, discount, or rebate the manufacturer provides to a group purchaser in this state as reported by the manufacturer and the group purchaser expressed as a percent of the WAC for prescription drug product under review;

3. the price at which therapeutic alternatives have been or will be sold in the state;

4. the average monetary price concession, discount, or rebate the manufacturer provides or is expected to provide to a group purchaser in the state or is expected to provide to group purchasers in the state for therapeutic alternatives;
(5) the cost to group purchasers based on patient access consistent with the United States Food and Drug Administration (FDA) labeled indications;

(6) the impact on patient access resulting from the cost of the prescription drug product relative to insurance benefit design;

(7) the current or expected dollar value of drug-specific patient access programs that are supported by manufacturers;

(8) the relative financial impacts to health, medical, or other social services costs that can be quantified and compared to baseline effects of existing therapeutic alternatives;

(9) the average patient co-pay or other cost-sharing for the prescription drug product in the state;

(10) any information a manufacturer chooses to provide; and

(11) any other factors as determined by the board.

Subd. 3. Further review factors. If, after considering the factors described in subdivision 2, the board is unable to determine whether a prescription drug product will produce or has produced an affordability challenge, the board may consider:

(1) manufacturer research and development costs, as indicated on the manufacturer's federal tax filing for the most recent tax year in proportion to the manufacturer's sales in the state;

(2) that portion of direct-to-consumer marketing costs eligible for favorable federal tax treatment in the most recent tax year that are specific to the prescription drug product under review and that are multiplied by the ratio of total manufacturer in-state sales to total manufacturer sales in the United States for the product under review;

(3) gross and net manufacturer revenues for the most recent tax year;

(4) any information and research related to the manufacturer's selection of the introductory price or price increase, including but not limited to:

   (i) life cycle management;

   (ii) market competition and context; and

   (iii) projected revenue; and

(5) any additional factors determined by the board to be relevant.
Subd. 4. **Public data; proprietary information.** (a) Any submission made to the board related to a drug cost review shall be made available to the public with the exception of information determined by the board to be proprietary.

(b) The board shall establish the standards for the information to be considered proprietary under paragraph (a) and section 62J.90, subdivision 2, including standards for heightened consideration of proprietary information for submissions for a cost review of a drug that is not yet approved by the FDA.

(c) Prior to the board establishing the standards under paragraph (b), the public shall be provided notice and the opportunity to submit comments.

Sec. 8. [62J.92] DETERMINATIONS; COMPLIANCE; REMEDIES.

Subd. 1. **Upper payment limit.** (a) In the event the board finds that the spending on a prescription drug product reviewed under section 62J.91 creates an affordability challenge for the state health care system or for patients, the board shall establish an upper payment limit after considering:

1. the cost of administering the drug;
2. the cost of delivering the drug to consumers;
3. the range of prices at which the drug is sold in the United States according to one or more pricing files accessed under section 62J.90, subdivision 1, and the range at which pharmacies are reimbursed in Canada; and
4. any other relevant pricing and administrative cost information for the drug.

(b) The upper payment limit shall apply to all public and private purchases, payments, and payer reimbursements for the prescription drug product that is intended for individuals in the state in person, by mail, or by other means.

Subd. 2. **Noncompliance.** (a) The failure of an entity to comply with an upper payment limit established by the board under this section shall be referred to the Office of the Attorney General.

(b) If the Office of the Attorney General finds that an entity was noncompliant with the upper payment limit requirements, the attorney general may pursue remedies consistent with chapter 8 or appropriate criminal charges if there is evidence of intentional profiteering.

(c) An entity who obtains price concessions from a drug manufacturer that result in a lower net cost to the stakeholder than the upper payment limit established by the board shall not be considered to be in noncompliance.
The Office of the Attorney General may provide guidance to stakeholders concerning activities that could be considered noncompliant.

Subd. 3. Appeals. (a) Persons affected by a decision of the board may request an appeal of the board's decision within 30 days of the date of the decision. The board shall hear the appeal and render a decision within 60 days of the hearing.

(b) All appeal decisions are subject to judicial review in accordance with chapter 14.

Sec. 9. [62J.93] REPORTS.

Beginning March 1, 2022, and each March 1 thereafter, the board shall submit a report to the governor and legislature on general price trends for prescription drug products and the number of prescription drug products that were subject to the board's cost review and analysis, including the result of any analysis as well as the number and disposition of appeals and judicial reviews.

Sec. 10. [62J.94] ERISA PLANS AND MEDICARE DRUG PLANS.

(a) Nothing in sections 62J.85 to 62J.95 shall be construed to require ERISA plans or Medicare Part D plans to comply with decisions of the board, but are free to choose to exceed the upper payment limit established by the board under section 62J.92.

(b) Providers who dispense and administer drugs in the state must bill all payers no more than the upper payment limit without regard to whether or not an ERISA plan or Medicare Part D plan chooses to reimburse the provider in an amount greater than the upper payment limit established by the board.

(c) For purposes of this section, an ERISA plan or group health plan is an employee welfare benefit plan established by or maintained by an employer or an employee organization, or both, that provides employer sponsored health coverage to employees and the employee's dependents and is subject to the Employee Retirement Income Security Act of 1974 (ERISA).

Sec. 11. [62J.95] SEVERABILITY.

If any provision of sections 62J.85 to 62J.94 or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of sections 62J.85 to 62J.94 that can be given effect without the invalid provision or application.
ARTICLE 3

INSURANCE

Section 1. Minnesota Statutes 2020, section 60A.092, subdivision 10a, is amended to read:

Subd. 10a. Other jurisdictions. The reinsurance is ceded and credit allowed to an assuming insurer not meeting the requirements of subdivision 2, 3, 4, 5, or 10, or 10b, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

EFFECTIVE DATE. This section is effective January 1, 2022, and applies to reinsurance contracts entered into or renewed on or after that date.

Sec. 2. Minnesota Statutes 2020, section 60A.092, is amended by adding a subdivision to read:

Subd. 10b. Credit allowed; reciprocal jurisdiction. (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the following conditions:

(i) the assuming insurer must have its head office in or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. A "reciprocal jurisdiction" means a jurisdiction that is:

(i) a non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subdivision, a "covered agreement" means an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, United States Code, title 31, sections 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in Minnesota or for allowing the ceding insurer to recognize credit for reinsurance;

(ii) a United States jurisdiction that meets the requirements for accreditation under the National Association of Insurance Commissioners (NAIC) financial standards and accreditation program; or

(iii) a qualified jurisdiction, as determined by the commissioner, which is not otherwise described in item (i) or (ii) and which meets the following additional requirements, consistent with the terms and conditions of in-force covered agreements:
(A) provides that an insurer which has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a United States-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

(B) does not require a United States-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-United States jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

(C) recognizes the United States state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the commissioner or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

(D) provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC;

(2) the assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, on at least an annual basis as of the preceding December 31 or on the date otherwise statutorily reported to the reciprocal jurisdiction, in the following amounts:

(i) no less than $250,000,000; or

(ii) if the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

(A) minimum capital and surplus equivalents, net of liabilities, or own funds of the equivalent of at least $250,000,000; and
(B) a central fund containing a balance of the equivalent of at least $250,000,000;

(3) the assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, as follows:

(i) if the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction defined in clause (1), item (i), the ratio specified in the applicable covered agreement;

(ii) if the assuming insurer is domiciled in a reciprocal jurisdiction defined in clause (1), item (ii), a risk-based capital ratio of 300 percent of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

(iii) if the assuming insurer is domiciled in a Reciprocal Jurisdiction defined in clause (1), item (iii), after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency;

(4) the assuming insurer must agree and provide adequate assurance in the form of a properly executed Form AR-1, Form CR-1, and Form RJ-1 of its agreement to the following:

(i) the assuming insurer must provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in clause (2) or (3), or if any regulatory action is taken against the assuming insurer for serious noncompliance with applicable law;

(ii) the assuming insurer must consent in writing to the jurisdiction of the courts of Minnesota and to the appointment of the commissioner as agent for service of process. The commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement. Nothing in this subdivision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(iii) the assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(iv) each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which
it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate;

(v) the assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer and the commissioner and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. The security shall be in a form consistent with sections 60A.092, subdivision 10, 60A.093, 60A.096, and 60A.097. For purposes of this regulation, the term "solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction; and

(vi) the assuming insurer must agree in writing to meet the applicable information filing requirements set forth in clause (5);

(5) the assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, the following documentation to the commissioner:

(i) for the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;

(ii) for the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;

(iii) prior to entry into the reinsurance agreement and not more than semiannually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

(iv) prior to entry into the reinsurance agreement and not more than semiannually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid

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and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth
in clause (6);

(6) the assuming insurer must maintain a practice of prompt payment of claims under
reinsurance agreements. The lack of prompt payment will be evidenced if any of the
following criteria is met:

(i) more than 15 percent of the reinsurance recoverables from the assuming insurer are
overdue and in dispute as reported to the commissioner;

(ii) more than 15 percent of the assuming insurer's ceding insurers or reinsurers have
overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute
and which exceed for each ceding insurer $100,000, or as otherwise specified in a covered
agreement; or

(iii) the aggregate amount of reinsurance recoverable on paid losses which are not in
dispute, but are overdue by 90 days or more, exceeds $50,000,000, or as otherwise specified
in a covered agreement;

(7) the assuming insurer's supervisory authority must confirm to the commissioner by
December 31, 2021, and annually thereafter, or at the annual date otherwise statutorily
reported to the reciprocal jurisdiction, that the assuming insurer complies with the
requirements set forth in clauses (2) and (3); and

(8) nothing in this subdivision precludes an assuming insurer from providing the
commissioner with information on a voluntary basis.

(b) The commissioner shall timely create and publish a list of reciprocal jurisdictions.
The commissioner's list shall include any reciprocal jurisdiction as defined under paragraph
(a), clause (1), items (i) and (ii), and shall consider any other reciprocal jurisdiction included
on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the
NAIC list of reciprocal jurisdictions in accordance with criteria developed under rules issued
by the commissioner. The commissioner may remove a jurisdiction from the list of reciprocal
jurisdictions upon a determination that the jurisdiction no longer meets the requirements of
a reciprocal jurisdiction, in accordance with a process set forth in rules issued by the
commissioner, except that the commissioner shall not remove from the list a reciprocal
jurisdiction as defined under paragraph (a), clause (1), items (i) and (ii). Upon removal of
a reciprocal jurisdiction from the list, credit for reinsurance ceded to an assuming insurer
which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise
allowed pursuant to law.
(c) The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subdivision and to which cessions shall be granted credit in accordance with this subdivision. The commissioner may add an assuming insurer to the list if an NAIC accredited jurisdiction has added the assuming insurer to a list of assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under paragraph (a), clause (4), and complies with any additional requirements that the commissioner may impose by rule, except to the extent that they conflict with an applicable covered agreement.

(i) If an NAIC-accredited jurisdiction has determined that the conditions set forth in paragraph (a), clause (2), have been met, the commissioner has the discretion to defer to that jurisdiction's determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this paragraph. The commissioner may accept financial documentation filed with another NAIC-accredited jurisdiction or with the NAIC in satisfaction of the requirements of paragraph (a), clause (2);

(ii) When requesting that the commissioner defer to another NAIC-accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 and additional information as the commissioner may require. A state that has received such a request will notify other states through the NAIC Committee Process and provide relevant information with respect to the determination of eligibility.

(d) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subdivision, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subdivision in accordance with procedures set forth in rule. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit, except to the extent that the assuming insurer's obligations under the contract are secured in accordance with this section. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of this section.

(e) Before denying statement credit or imposing a requirement to post security with respect to paragraph (d) or adopting any similar requirement that will have substantially the same regulatory impact as security, the commissioner shall:
(1) communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in paragraph (a), clause (2);

(2) provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;

(3) after the expiration of 90 days or less, as set out in clause (2), if the commissioner determines that no or insufficient action was taken by the assuming insurer, the commissioner may impose any of the requirements as set out in this paragraph; and

(4) provide a written explanation to the assuming insurer of any of the requirements set out in this paragraph.

(f) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(g) Nothing in this subdivision limits or in any way alters the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in the reinsurance agreement, except as expressly prohibited by applicable law or rule.

(h) Credit may be taken under this subdivision only for reinsurance agreements entered into, amended, or renewed on or after the effective date of this subdivision, and only with respect to losses incurred and reserves reported on or after the later of: (1) the date on which the assuming insurer has met all eligibility requirements pursuant to this subdivision; and (2) the effective date of the new reinsurance agreement, amendment, or renewal. This paragraph does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subdivision, as long as the reinsurance qualifies for credit under any other applicable provision of law. Nothing in this subdivision shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement, except as permitted by the terms of the agreement. Nothing in this subdivision shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

EFFECTIVE DATE. This section is effective January 1, 2022, and applies to reinsurance contracts entered into or renewed on or after that date.
Sec. 3. Minnesota Statutes 2020, section 60A.0921, subdivision 2, is amended to read:

Subd. 2. Certification procedure. (a) The commissioner shall post notice on the department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least 30 days after posting the notice.

(b) The commissioner shall issue written notice to an assuming insurer that has applied and been approved as a certified reinsurer. The notice must include the rating assigned the certified reinsurer in accordance with subdivision 1. The commissioner shall publish a list of all certified reinsurers and their ratings.

(c) In order to be eligible for certification, the assuming insurer must:

(1) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner under subdivision 3;

(2) maintain capital and surplus, or its equivalent, of no less than $250,000,000 calculated in accordance with paragraph (d), clause (8). This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents net of liabilities of at least $250,000,000 and a central fund containing a balance of at least $250,000,000;

(3) maintain financial strength ratings from two or more rating agencies acceptable to the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings shall be one factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

(i) Standard & Poor's;

(ii) Moody's Investors Service;

(iii) Fitch Ratings;

(iv) A.M. Best Company; or

(v) any other nationally recognized statistical rating organization; and

(4) ensure that the certified reinsurer complies with any other requirements reasonably imposed by the commissioner.

(d) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including
incorporated and individual unincorporated underwriters that has been approved to do
business as a single certified reinsurer may be evaluated on the basis of its group rating.
Factors that may be considered as part of the evaluation process include, but are not limited
to:

(1) certified reinsurer's financial strength rating from an acceptable rating agency. The
maximum rating that a certified reinsurer may be assigned will correspond to its financial
strength rating as outlined in the table below. The commissioner shall use the lowest financial
strength rating received from an approved rating agency in establishing the maximum rating
of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings
from acceptable rating agencies will result in loss of eligibility for certification;

<table>
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<th>Moody's</th>
<th>Fitch</th>
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<td>AAA</td>
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<td>AAA</td>
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<td>AA+</td>
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<td>AA+</td>
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<td>Ba1, Ba2, Ba3, BB+, BB, BB-</td>
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</tr>
<tr>
<td></td>
<td>C-, D, E, F</td>
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<tr>
<td></td>
<td>CC, C, D, R</td>
<td>Ca, C</td>
<td>CC, CCC-</td>
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</tbody>
</table>

(2) the business practices of the certified reinsurer in dealing with its ceding insurers,
including its record of compliance with reinsurance contractual terms and obligations;

(3) for certified reinsurers domiciled in the United States, a review of the most recent
applicable NAIC annual statement;

(4) for certified reinsurers not domiciled in the United States, a review annually of such
forms as may be required by the commissioner;

(5) the reputation of the certified reinsurer for prompt payment of claims under
reinsurance agreements, based on an analysis of ceding insurers' reporting of overdue
reinsurance recoverables, including the proportion of obligations that are more than 90 days
past due or are in dispute, with specific attention given to obligations payable to companies
that are in administrative supervision or receivership;

(6) regulatory actions against the certified reinsurer;

(7) the report of the independent auditor on the financial statements of the insurance
enterprise, on the basis described in clause (8);
(8) for certified reinsurers not domiciled in the United States, audited financial statements (audited United States GAAP basis if available, audited IFRS basis statements are allowed, but must include an audited footnote reconciling equity and net income to a United States GAAP basis, or, with permission of the commissioner, audited IFRS statements with reconciliation to United States GAAP certified by an officer of the company). Upon the initial application for certification, the commissioner will consider audited financial statements for the last three years filed with its non-United States jurisdiction supervisor;

(9) the liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

(10) a certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves United States ceding insurers. The commissioner must receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

(11) other information as determined by the commissioner.

(e) Based on the analysis conducted under paragraph (d), clause (5), of a certified reinsurer's reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under paragraph (d), clause (1), if the commissioner finds that:

(1) more than 15 percent of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more which are not in dispute and which exceed $100,000 for each cedent; or

(2) the aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by 90 days or more exceeds $50,000,000.

(f) The assuming insurer must submit such forms as required by the commissioner as evidence of its submission to the jurisdiction of this state, appoint the commissioner as an agent for service of process in this state, and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment. The commissioner shall not certify an assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards.
(g) The certified reinsurer must agree to meet filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All data submitted by certified reinsurers to the commissioner is nonpublic under section 13.02, subdivision 9. The certified reinsurer must file with the commissioner:

1. A notification within ten days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license, or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

2. An annual report regarding reinsurance assumed, in a form determined by the commissioner;

3. An annual report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in clause (4);

4. An annual audited financial statement, regulatory filings, and actuarial opinion filed with the certified reinsurer's supervisor. Upon the initial certification, audited financial statements for the last three two years filed with the certified reinsurer's supervisor;

5. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers;

6. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

7. Any other relevant information as determined by the commissioner.

EFFECTIVE DATE. This section is effective January 1, 2022, and applies to reinsurance contracts entered into or renewed on or after that date.

Sec. 4. Minnesota Statutes 2020, section 60A.14, subdivision 1, is amended to read:

Subdivision 1. Fees other than examination fees. In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies:

1. For filing certificate of incorporation $25 and amendments thereto, $10;

2. For filing annual statements, $15;

3. For each annual certificate of authority, $15;
(4) for filing bylaws $25 and amendments thereto, $10;

(b) by other domestic and foreign companies including fraternals and reciprocal exchanges:

(1) for filing an application for an initial certification of authority to be admitted to transact business in this state, $1,500;

(2) for filing certified copy of certificate of articles of incorporation, $100;

(3) for filing annual statement, $225 $300;

(4) for filing certified copy of amendment to certificate or articles of incorporation, $100;

(5) for filing bylaws, $75 or amendments thereto, $75;

(6) for each company's certificate of authority, $575 $750, annually;

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, $25;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and $2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, $575;

(4) for valuing the policies of life insurance companies, one cent two cents per $1,000 of insurance so valued, provided that the fee shall not exceed $13,000 $26,000 per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(5) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, $50;

(6) for each appointment of an agent filed with the commissioner, $30;

(7) for filing forms, rates, and compliance certifications under section 60A.315, $140 per filing, or $125 per filing when submitted via electronic filing system. Filing fees may be paid on a quarterly basis in response to an invoice. Billing and payment may be made electronically;

(8) for annual renewal of surplus lines insurer license, $300 $400.
The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 5. [60A.985] DEFINITIONS.

Subd. 1. Terms. As used in sections 60A.985 to 60A.9857, the following terms have the meanings given.

Subd. 2. Authorized individual. "Authorized individual" means an individual known to and screened by the licensee and determined to be necessary and appropriate to have access to the nonpublic information held by the licensee and its information systems.

Subd. 3. Consumer. "Consumer" means an individual, including but not limited to an applicant, policyholder, beneficiary, claimant, and certificate holder who is a resident of this state and whose nonpublic information is in a licensee's possession, custody, or control.

Subd. 4. Cybersecurity event. "Cybersecurity event" means an event resulting in unauthorized access to, or disruption or misuse of, an information system or nonpublic information stored on an information system.

Cybersecurity event does not include the unauthorized acquisition of encrypted nonpublic information if the encryption, process, or key is not also acquired, released, or used without authorization.

Cybersecurity event does not include an event with regard to which the licensee has determined that the nonpublic information accessed by an unauthorized person has not been used or released and has been returned or destroyed.

Subd. 5. Encrypted. "Encrypted" means the transformation of data into a form which results in a low probability of assigning meaning without the use of a protective process or key.

Subd. 6. Information security program. "Information security program" means the administrative, technical, and physical safeguards that a licensee uses to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle nonpublic information.

Subd. 7. Information system. "Information system" means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of nonpublic electronic information, as well as any specialized system such as industrial or process controls systems, telephone switching and private branch exchange systems, and environmental control systems.
Subd. 8. Licensee. "Licensee" means any person licensed, authorized to operate, or registered, or required to be licensed, authorized, or registered by the Department of Commerce or the Department of Health under chapters 59A to 62M and 62Q to 79A.

Subd. 9. Multifactor authentication. "Multifactor authentication" means authentication through verification of at least two of the following types of authentication factors:

(1) knowledge factors, such as a password;

(2) possession factors, such as a token or text message on a mobile phone; or

(3) inherence factors, such as a biometric characteristic.

Subd. 10. Nonpublic information. "Nonpublic information" means electronic information that is not publicly available information and is:

(1) any information concerning a consumer which because of name, number, personal mark, or other identifier can be used to identify the consumer, in combination with any one or more of the following data elements:

(i) Social Security number;

(ii) driver's license number or nondriver identification card number;

(iii) financial account number, credit card number, or debit card number;

(iv) any security code, access code, or password that would permit access to a consumer's financial account; or

(v) biometric records; or

(2) any information or data, except age or gender, in any form or medium created by or derived from a health care provider or a consumer that can be used to identify a particular consumer and that relates to:

(i) the past, present, or future physical, mental, or behavioral health or condition of any consumer or a member of the consumer's family;

(ii) the provision of health care to any consumer; or

(iii) payment for the provision of health care to any consumer.

Subd. 11. Person. "Person" means any individual or any nongovernmental entity, including but not limited to any nongovernmental partnership, corporation, branch, agency, or association.
Subd. 12. **Publicly available information.** "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from: federal, state, or local government records; widely distributed media; or disclosures to the general public that are required to be made by federal, state, or local law.

For the purposes of this definition, a licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

1. that the information is of the type that is available to the general public; and
2. whether a consumer can direct that the information not be made available to the general public and, if so, that such consumer has not done so.

Subd. 13. **Risk assessment.** "Risk assessment" means the risk assessment that each licensee is required to conduct under section 60A.9853, subdivision 3.

Subd. 14. **State.** "State" means the state of Minnesota.

Subd. 15. **Third-party service provider.** "Third-party service provider" means a person, not otherwise defined as a licensee, that contracts with a licensee to maintain, process, or store nonpublic information, or is otherwise permitted access to nonpublic information through its provision of services to the licensee.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 6. [60A.9851] INFORMATION SECURITY PROGRAM.

Subdivision 1. **Implementation of an information security program.** Commensurate with the size and complexity of the licensee, the nature and scope of the licensee's activities, including its use of third-party service providers, and the sensitivity of the nonpublic information used by the licensee or in the licensee's possession, custody, or control, each licensee shall develop, implement, and maintain a comprehensive written information security program based on the licensee's risk assessment and that contains administrative, technical, and physical safeguards for the protection of nonpublic information and the licensee's information system.

Subd. 2. **Objectives of an information security program.** A licensee's information security program shall be designed to:

1. protect the security and confidentiality of nonpublic information and the security of the information system;
(2) protect against any threats or hazards to the security or integrity of nonpublic
information and the information system;

(3) protect against unauthorized access to, or use of, nonpublic information, and minimize
the likelihood of harm to any consumer; and

(4) define and periodically reevaluate a schedule for retention of nonpublic information
and a mechanism for its destruction when no longer needed.

Subd. 3. Risk assessment. The licensee shall:

(1) designate one or more employees, an affiliate, or an outside vendor authorized to act
on behalf of the licensee who is responsible for the information security program;

(2) identify reasonably foreseeable internal or external threats that could result in
unauthorized access, transmission, disclosure, misuse, alteration, or destruction of nonpublic
information, including threats to the security of information systems and nonpublic
information that are accessible to, or held by, third-party service providers;

(3) assess the likelihood and potential damage of the threats identified pursuant to clause
(2), taking into consideration the sensitivity of the nonpublic information;

(4) assess the sufficiency of policies, procedures, information systems, and other
safeguards in place to manage these threats, including consideration of threats in each
relevant area of the licensee's operations, including:

(i) employee training and management;

(ii) information systems, including network and software design, as well as information
classification, governance, processing, storage, transmission, and disposal; and

(iii) detecting, preventing, and responding to attacks, intrusions, or other systems failures;

and

(5) implement information safeguards to manage the threats identified in its ongoing
assessment, and no less than annually, assess the effectiveness of the safeguards' key controls,
systems, and procedures.

Subd. 4. Risk management. Based on its risk assessment, the licensee shall:

(1) design its information security program to mitigate the identified risks, commensurate
with the size and complexity of the licensee, the nature and scope of the licensee's activities,
including its use of third-party service providers, and the sensitivity of the nonpublic
information used by the licensee or in the licensee's possession, custody, or control;
(2) determine which of the following security measures are appropriate and implement any appropriate security measures:

(i) place access controls on information systems, including controls to authenticate and permit access only to authorized individuals, to protect against the unauthorized acquisition of nonpublic information;

(ii) identify and manage the data, personnel, devices, systems, and facilities that enable the organization to achieve business purposes in accordance with their relative importance to business objectives and the organization's risk strategy;

(iii) restrict physical access to nonpublic information to authorized individuals only;

(iv) protect, by encryption or other appropriate means, all nonpublic information while being transmitted over an external network and all nonpublic information stored on a laptop computer or other portable computing or storage device or media;

(v) adopt secure development practices for in-house developed applications utilized by the licensee;

(vi) modify the information system in accordance with the licensee's information security program;

(vii) utilize effective controls, which may include multifactor authentication procedures for any authorized individual accessing nonpublic information;

(viii) regularly test and monitor systems and procedures to detect actual and attempted attacks on, or intrusions into, information systems;

(ix) include audit trails within the information security program designed to detect and respond to cybersecurity events and designed to reconstruct material financial transactions sufficient to support normal operations and obligations of the licensee;

(x) implement measures to protect against destruction, loss, or damage of nonpublic information due to environmental hazards, such as fire and water damage, other catastrophes, or technological failures; and

(xi) develop, implement, and maintain procedures for the secure disposal of nonpublic information in any format;

(3) include cybersecurity risks in the licensee's enterprise risk management process;

(4) stay informed regarding emerging threats or vulnerabilities and utilize reasonable security measures when sharing information relative to the character of the sharing and the type of information shared; and
provide its personnel with cybersecurity awareness training that is updated as necessary to reflect risks identified by the licensee in the risk assessment.

Subd. 5. **Oversight by board of directors.** If the licensee has a board of directors, the board or an appropriate committee of the board shall, at a minimum:

1. require the licensee's executive management or its delegates to develop, implement, and maintain the licensee's information security program;
2. require the licensee's executive management or its delegates to report in writing, at least annually, the following information:
   (i) the overall status of the information security program and the licensee's compliance with this act; and
   (ii) material matters related to the information security program, addressing issues such as risk assessment, risk management and control decisions, third-party service provider arrangements, results of testing, cybersecurity events or violations and management's responses thereto, and recommendations for changes in the information security program; and
3. if executive management delegates any of its responsibilities under this section, it shall oversee the development, implementation, and maintenance of the licensee's information security program prepared by the delegate and shall receive a report from the delegate complying with the requirements of the report to the board of directors.

Subd. 6. **Oversight of third-party service provider arrangements.** (a) A licensee shall exercise due diligence in selecting its third-party service provider.

(b) A licensee shall require a third-party service provider to implement appropriate administrative, technical, and physical measures to protect and secure the information systems and nonpublic information that are accessible to, or held by, the third-party service provider.

Subd. 7. **Program adjustments.** The licensee shall monitor, evaluate, and adjust, as appropriate, the information security program consistent with any relevant changes in technology, the sensitivity of its nonpublic information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to information systems.

Subd. 8. **Incident response plan.** (a) As part of its information security program, each licensee shall establish a written incident response plan designed to promptly respond to,
and recover from, any cybersecurity event that compromises the confidentiality, integrity, or availability of nonpublic information in its possession, the licensee's information systems, or the continuing functionality of any aspect of the licensee's business or operations.

(b) The incident response plan shall address the following areas:

(1) the internal process for responding to a cybersecurity event;

(2) the goals of the incident response plan;

(3) the definition of clear roles, responsibilities, and levels of decision-making authority;

(4) external and internal communications and information sharing;

(5) identification of requirements for the remediation of any identified weaknesses in information systems and associated controls;

(6) documentation and reporting regarding cybersecurity events and related incident response activities; and

(7) the evaluation and revision, as necessary, of the incident response plan following a cybersecurity event.

Subd. 9. Annual certification to commissioner. (a) Subject to paragraph (b), by April 15 of each year, an insurer domiciled in this state shall certify in writing to the commissioner that the insurer is in compliance with the requirements set forth in this section. Each insurer shall maintain all records, schedules, and data supporting this certificate for a period of five years and shall permit examination by the commissioner. To the extent an insurer has identified areas, systems, or processes that require material improvement, updating, or redesign, the insurer shall document the identification and the remedial efforts planned and underway to address such areas, systems, or processes. Such documentation must be available for inspection by the commissioner.

(b) The commissioner must post on the department's website, no later than 60 days prior to the certification required by paragraph (a), the form and manner of submission required and any instructions necessary to prepare the certification.

EFFECTIVE DATE. This section is effective August 1, 2021. Licensees have one year from the effective date to implement subdivisions 1 to 5 and 7 to 9, and two years from the effective date to implement subdivision 6.
Sec. 7. [60A.9852] INVESTIGATION OF A CYBERSECURITY EVENT.

Subdivision 1. Prompt investigation. If the licensee learns that a cybersecurity event has or may have occurred, the licensee, or an outside vendor or service provider designated to act on behalf of the licensee, shall conduct a prompt investigation.

Subd. 2. Investigation contents. During the investigation, the licensee, or an outside vendor or service provider designated to act on behalf of the licensee, shall, at a minimum and to the extent possible:

(1) determine whether a cybersecurity event has occurred;
(2) assess the nature and scope of the cybersecurity event, if any;
(3) identify whether any nonpublic information was involved in the cybersecurity event and, if so, what nonpublic information was involved; and
(4) perform or oversee reasonable measures to restore the security of the information systems compromised in the cybersecurity event in order to prevent further unauthorized acquisition, release, or use of nonpublic information in the licensee's possession, custody, or control.

Subd. 3. Third-party systems. If the licensee learns that a cybersecurity event has or may have occurred in a system maintained by a third-party service provider, the licensee will complete the steps listed in subdivision 2 or confirm and document that the third-party service provider has completed those steps.

Subd. 4. Records. The licensee shall maintain records concerning all cybersecurity events for a period of at least five years from the date of the cybersecurity event and shall produce those records upon demand of the commissioner.

EFFECTIVE DATE. This section is effective August 1, 2021.

Sec. 8. [60A.9853] NOTIFICATION OF A CYBERSECURITY EVENT.

Subdivision 1. Notification to the commissioner. Each licensee shall notify the commissioner of commerce or commissioner of health, whichever commissioner otherwise regulates the licensee, without unreasonable delay but in no event later than three business days from a determination that a cybersecurity event has occurred when either of the following criteria has been met:

(1) this state is the licensee's state of domicile, in the case of an insurer, or this state is the licensee's home state, in the case of a producer, as those terms are defined in chapter 60K and the cybersecurity event has a reasonable likelihood of materially harming:
(i) any consumer residing in this state; or

(ii) any part of the normal operations of the licensee; or

(2) the licensee reasonably believes that the nonpublic information involved is of 250 or more consumers residing in this state and that is either of the following:

(i) a cybersecurity event impacting the licensee of which notice is required to be provided to any government body, self-regulatory agency, or any other supervisory body pursuant to any state or federal law; or

(ii) a cybersecurity event that has a reasonable likelihood of materially harming:

(A) any consumer residing in this state; or

(B) any part of the normal operations of the licensee.

Subd. 2. Information; notification. A licensee making the notification required under subdivision 1 shall provide the information in electronic form as directed by the commissioner. The licensee shall have a continuing obligation to update and supplement initial and subsequent notifications to the commissioner concerning material changes to previously provided information relating to the cybersecurity event. The licensee shall provide as much of the following information as possible:

(1) date of the cybersecurity event;

(2) description of how the information was exposed, lost, stolen, or breached, including the specific roles and responsibilities of third-party service providers, if any;

(3) how the cybersecurity event was discovered;

(4) whether any lost, stolen, or breached information has been recovered and, if so, how this was done;

(5) the identity of the source of the cybersecurity event;

(6) whether the licensee has filed a police report or has notified any regulatory, government, or law enforcement agencies and, if so, when such notification was provided;

(7) description of the specific types of information acquired without authorization. Specific types of information means particular data elements including, for example, types of medical information, types of financial information, or types of information allowing identification of the consumer;

(8) the period during which the information system was compromised by the cybersecurity event;
(9) the number of total consumers in this state affected by the cybersecurity event. The
licensee shall provide the best estimate in the initial report to the commissioner and update
this estimate with each subsequent report to the commissioner pursuant to this section;

(10) the results of any internal review identifying a lapse in either automated controls
or internal procedures, or confirming that all automated controls or internal procedures were
followed;

(11) description of efforts being undertaken to remediate the situation which permitted
the cybersecurity event to occur;

(12) a copy of the licensee's privacy policy and a statement outlining the steps the licensee
will take to investigate and notify consumers affected by the cybersecurity event; and

(13) name of a contact person who is familiar with the cybersecurity event and authorized
to act for the licensee.

Subd. 3. Notification to consumers. (a) If a licensee is required to submit a report to
the commissioner under subdivision 1, the licensee shall notify any consumer residing in
Minnesota if, as a result of the cybersecurity event reported to the commissioner, the
consumer's nonpublic information was or is reasonably believed to have been acquired by
an unauthorized person, and there is a reasonable likelihood of material harm to the consumer
as a result of the cybersecurity event. Consumer notification is not required for a
cybersecurity event resulting from the good faith acquisition of nonpublic information by
an employee or agent of the licensee for the purposes of the licensee's business, provided
the nonpublic information is not used for a purpose other than the licensee's business or
subject to further unauthorized disclosure. The notification must be made in the most
expedient time possible and without unreasonable delay, consistent with the legitimate needs
of law enforcement or with any measures necessary to determine the scope of the breach,
identify the individuals affected, and restore the reasonable integrity of the data system.
The notification may be delayed to a date certain if the commissioner determines that
providing the notice impedes a criminal investigation. The licensee shall provide a copy of
the notice to the commissioner.

(b) For purposes of this subdivision, notice required under paragraph (a) must be provided
by one of the following methods:

(1) written notice to the consumer's most recent address in the licensee's records;

(2) electronic notice, if the licensee's primary method of communication with the
consumer is by electronic means or if the notice provided is consistent with the provisions
regarding electronic records and signatures in United States Code, title 15, section 7001;

or

(3) if the cost of providing notice exceeds $250,000, the affected class of consumers to be notified exceeds 500,000, or the licensee does not have sufficient contact information for the subject consumers, notice as follows:

(i) e-mail notice when the licensee has an e-mail address for the subject consumers;

(ii) conspicuous posting of the notice on the website page of the licensee; and

(iii) notification to major statewide media.

(c) Notwithstanding paragraph (b), a licensee that maintains its own notification procedure as part of its information security program that is consistent with the timing requirements of this subdivision is deemed to comply with the notification requirements if the licensee notifies subject consumers in accordance with its program.

(d) A waiver of the requirements under this subdivision is contrary to public policy, and is void and unenforceable.

Subd. 4. Notice regarding cybersecurity events of third-party service providers. (a) In the case of a cybersecurity event in a system maintained by a third-party service provider, of which the licensee has become aware, the licensee shall treat such event as it would under subdivision 1 unless the third-party service provider provides the notice required under subdivision 1.

(b) The computation of a licensee's deadlines shall begin on the day after the third-party service provider notifies the licensee of the cybersecurity event or the licensee otherwise has actual knowledge of the cybersecurity event, whichever is sooner.

(c) Nothing in this act shall prevent or abrogate an agreement between a licensee and another licensee, a third-party service provider, or any other party to fulfill any of the investigation requirements imposed under section 60A.9854 or notice requirements imposed under this section.

Subd. 5. Notice regarding cybersecurity events of reinsurers to insurers. (a) In the case of a cybersecurity event involving nonpublic information that is used by the licensee that is acting as an assuming insurer or in the possession, custody, or control of a licensee that is acting as an assuming insurer and that does not have a direct contractual relationship with the affected consumers, the assuming insurer shall notify its affected ceding insurers and the commissioner of its state of domicile within three business days of making the determination that a cybersecurity event has occurred.
(b) The ceding insurers that have a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements imposed under subdivision 3 and any other notification requirements relating to a cybersecurity event imposed under this section.

c) In the case of a cybersecurity event involving nonpublic information that is in the possession, custody, or control of a third-party service provider of a licensee that is an assuming insurer, the assuming insurer shall notify its affected ceding insurers and the commissioner of its state of domicile within three business days of receiving notice from its third-party service provider that a cybersecurity event has occurred.

d) The ceding insurers that have a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements imposed under subdivision 3 and any other notification requirements relating to a cybersecurity event imposed under this section.

e) Any licensee acting as an assuming insurer shall have no other notice obligations relating to a cybersecurity event or other data breach under this section.

Subd. 6. Notice regarding cybersecurity events of insurers to producers of record. (a) In the case of a cybersecurity event involving nonpublic information that is in the possession, custody, or control of a licensee that is an insurer or its third-party service provider and for which a consumer accessed the insurer's services through an independent insurance producer, the insurer shall notify the producers of record of all affected consumers no later than the time at which notice is provided to the affected consumers.

(b) The insurer is excused from this obligation for those instances in which it does not have the current producer of record information for any individual consumer or in those instances in which the producer of record is no longer appointed to sell, solicit, or negotiate on behalf of the insurer.

EFFECTIVE DATE. This section is effective August 1, 2021.

Sec. 9. [60A.9854] POWER OF COMMISSIONER.

(a) The commissioner of commerce or commissioner of health, whichever commissioner otherwise regulates the licensee, shall have power to examine and investigate into the affairs of any licensee to determine whether the licensee has been or is engaged in any conduct in violation of sections 60A.985 to 60A.9857. This power is in addition to the powers which the commissioner has under section 60A.031. Any such investigation or examination shall be conducted pursuant to section 60A.031.

(b) Whenever the commissioner of commerce or commissioner of health has reason to believe that a licensee has been or is engaged in conduct in this state which violates sections
60A.985 to 60A.9857, the commissioner of commerce or commissioner of health may take action that is necessary or appropriate to enforce those sections.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 10. [60A.9855] CONFIDENTIALITY.

Subdivision 1. Licensee information. Any documents, materials, or other information in the control or possession of the department that are furnished by a licensee or an employee or agent thereof acting on behalf of a licensee pursuant to section 60A.9851, subdivision 9; section 60A.9853, subdivision 2, clauses (2), (3), (4), (5), (8), (10), and (11); or that are obtained by the commissioner in an investigation or examination pursuant to section 60A.9854 shall be classified as confidential, protected nonpublic, or both; shall not be subject to subpoena; and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

Subd. 2. Certain testimony prohibited. Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subdivision 1.

Subd. 3. Information sharing. In order to assist in the performance of the commissioner's duties under this act, the commissioner:

1) may share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subdivision 1, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information;

2) may receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;
(3) may share documents, materials, or other information subject to subdivision 1, with
a third-party consultant or vendor provided the consultant agrees in writing to maintain the
confidentiality and privileged status of the document, material, or other information; and
(4) may enter into agreements governing sharing and use of information consistent with
this subdivision.

Subd. 4. No waiver of privilege or confidentiality. No waiver of any applicable privilege
or claim of confidentiality in the documents, materials, or information shall occur as a result
of disclosure to the commissioner under this section or as a result of sharing as authorized
in subdivision 3.

Subd. 5. Certain actions public. Nothing in sections 60A.985 to 60A.9857 shall prohibit
the commissioner from releasing final, adjudicated actions that are open to public inspection
pursuant to chapter 13 to a database or other clearinghouse service maintained by the National
Association of Insurance Commissioners, its affiliates, or subsidiaries.

Subd. 6. Classification, protection, and use of information by others. Documents,
materials, or other information in the possession or control of the National Association of
Insurance Commissioners or a third-party consultant pursuant to sections 60A.985 to
60A.9857 are classified as confidential, protected nonpublic, and privileged; are not subject
to subpoena; and are not subject to discovery or admissible in evidence in a private civil
action.

EFFECTIVE DATE. This section is effective August 1, 2021.

Sec. 11. [60A.9856] EXCEPTIONS.

Subdivision 1. Generally. The following exceptions shall apply to sections 60A.985 to
60A.9857:

(1) a licensee with fewer than 25 employees is exempt from sections 60A.9851 and
60A.9852;
(2) a licensee subject to and in compliance with the Health Insurance Portability and
Accountability Act, Public Law 104-191, 110 Stat. 1936 (HIPAA), is considered to comply
with sections 60A.9851, 60A.9852, and 60A.9853, subdivisions 3 to 5, provided the licensee
submits a written statement certifying its compliance with HIPAA;
(3) a licensee affiliated with a depository institution that maintains an information security
program in compliance with the interagency guidelines establishing standards for
safeguarding customer information as set forth pursuant to United States Code, title 15,
sections 6801 and 6805, shall be considered to meet the requirements of section 60A.9851
provided that the licensee produce, upon request, documentation satisfactory to the
commission that independently validates the affiliated depository institution's adoption of
an information security program that satisfies the interagency guidelines;

(4) an employee, agent, representative, or designee of a licensee, who is also a licensee,
is exempt from sections 60A.9851 and 60A.9852 and need not develop its own information
security program to the extent that the employee, agent, representative, or designee is covered
by the information security program of the other licensee; and

(5) an employee, agent, representative, or designee of a producer licensee, as defined
under section 60K.31, subdivision 6, who is also a licensee, is exempt from sections 60A.985
to 60A.9857.

Subd. 2. Exemption lapse; compliance. In the event that a licensee ceases to qualify
for an exception, such licensee shall have 180 days to comply with this act.

EFFECTIVE DATE. This section is effective August 1, 2021.

Sec. 12. [60A.9857] PENALTIES.

In the case of a violation of sections 60A.985 to 60A.9856, a licensee may be penalized
in accordance with section 60A.052.

EFFECTIVE DATE. This section is effective August 1, 2021.

Sec. 13. Minnesota Statutes 2020, section 61A.245, subdivision 4, is amended to read:

Subd. 4. Minimum values. The minimum values as specified in subdivisions 5, 6, 7, 8
and 10 of any paid-up annuity, cash surrender or death benefits available under an annuity
contract shall be based upon minimum nonforfeiture amounts as defined in this subdivision.

(a) The minimum nonforfeiture amount at any time at or prior to the commencement of
any annuity payments shall be equal to an accumulation up to that time at rates of interest
as indicated in paragraph (b) of the net considerations, as defined in this subdivision, paid
prior to that time, decreased by the sum of clauses (1) through (4):

(1) any prior withdrawals from or partial surrenders of the contract accumulated at rates
of interest as indicated in paragraph (b);

(2) an annual contract charge of $50, accumulated at rates of interest as indicated in
paragraph (b);
(3) any premium tax paid by the company for the contract and not subsequently credited back to the company, such as upon early termination of the contract, in which case this decrease must not be taken, accumulated at rates of interest as indicated in paragraph (b);

and

(4) the amount of any indebtedness to the company on the contract, including interest due and accrued.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to 87.5 percent of the gross considerations credited to the contract during that contract year.

(b) The interest rate used in determining minimum nonforfeiture amounts must be an annual rate of interest determined as the lesser of three percent per annum and the following, which must be specified in the contract if the interest rate will be reset:

(1) the five-year constant maturity treasury rate reported by the Federal Reserve as of a date, or average over a period, rounded to the nearest 1/20 of one percent, specified in the contract no longer than 15 months prior to the contract issue date or redetermination date under clause (4);

(2) reduced by 125 basis points;

(3) where the resulting interest rate is not less than \( \text{one } 0.15 \text{ percent} \); and

(4) the interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

(c) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in clause (2) by up to an additional 100 basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction must not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

EFFECTIVE DATE. This section is effective the day following enactment.
Sec. 14. Minnesota Statutes 2020, section 62J.23, subdivision 2, is amended to read:

Subd. 2. Restrictions. (a) From July 1, 1992, until rules are adopted by the commissioner under this section, the restrictions in the federal Medicare antikickback statutes in section 1128B(b) of the Social Security Act, United States Code, title 42, section 1320a-7b(b), and rules adopted under the federal statutes, apply to all persons in the state, regardless of whether the person participates in any state health care program.

(b) Nothing in paragraph (a) shall be construed to prohibit an individual from receiving a discount or other reduction in price or a limited-time free supply or samples of a prescription drug, medical supply, or medical equipment offered by a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager, so long as:

1. the discount or reduction in price is provided to the individual in connection with the purchase of a prescription drug, medical supply, or medical equipment prescribed for that individual;
2. it otherwise complies with the requirements of state and federal law applicable to enrollees of state and federal public health care programs;
3. the discount or reduction in price does not exceed the amount paid directly by the individual for the prescription drug, medical supply, or medical equipment; and
4. the limited-time free supply or samples are provided by a physician, advanced practice registered nurse, or pharmacist, as provided by the federal Prescription Drug Marketing Act.

For purposes of this paragraph, "prescription drug" includes prescription drugs that are administered through infusion, injection, or other parenteral methods, and related services and supplies.

(c) No benefit, reward, remuneration, or incentive for continued product use may be provided to an individual or an individual's family by a pharmaceutical manufacturer, medical supply or device manufacturer, or pharmacy benefit manager, except that this prohibition does not apply to:

1. activities permitted under paragraph (b);
2. a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager providing to a patient, at a discount or reduced price or free of charge, ancillary products necessary for treatment of the medical condition.
for which the prescription drug, medical supply, or medical equipment was prescribed or
provided; and

(3) a pharmaceutical manufacturer, medical supply or device manufacturer, health plan
company, or pharmacy benefit manager providing to a patient a trinket or memento of
insignificant value.

(d) Nothing in this subdivision shall be construed to prohibit a health plan company
from offering a tiered formulary with different co-payment or cost-sharing amounts for
different drugs.

Sec. 15. [62Q.097] REQUIREMENTS FOR TIMELY PROVIDER
CREDENTIALING.

Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

(b) "Clean application for provider credentialing" or "clean application" means an
application for provider credentialing submitted by a health care provider to a health plan
company that is complete, is in the format required by the health plan company, and includes
all information and substantiation required by the health plan company and does not require
evaluation of any identified potential quality or safety concern.

(c) "Provider credentialing" means the process undertaken by a health plan company to
evaluate and approve a health care provider's education, training, residency, licenses,
certifications, and history of significant quality or safety concerns in order to approve the
health care provider to provide health care services to patients at a clinic or facility.

Subd. 2. Time limit for credentialing determination. A health plan company that
receives an application for provider credentialing must:

(1) if the application is determined to be a clean application for provider credentialing
and if the health care provider submitting the application or the clinic or facility at which
the health care provider provides services requests the information, affirm that the health
care provider's application is a clean application and notify the health care provider or clinic
or facility of the date by which the health plan company will make a determination on the
health care provider's application;

(2) if the application is determined not to be a clean application, inform the health care
provider of the application's deficiencies or missing information or substantiation within
three business days after the health plan company determines the application is not a clean
application; and
(3) make a determination on the health care provider's clean application within 45 days after receiving the clean application unless the health plan company identifies a substantive quality or safety concern in the course of provider credentialing that requires further investigation. Upon notice to the health care provider, clinic, or facility, the health plan company is allowed 30 additional days to investigate any quality or safety concerns.

**EFFECTIVE DATE.** This section applies to applications for provider credentialing submitted to a health plan company on or after January 1, 2022.

Sec. 16. [62Q.472] SCREENING AND TESTING FOR OPIOIDS.

(a) A health plan company shall not place a lifetime or annual limit on screenings and urinalysis testing for opioids for an enrollee in an inpatient or outpatient substance use disorder treatment program when ordered by a health care provider and performed by an accredited clinical laboratory. A health plan company is not prohibited from conducting a medical necessity review when screenings or urinalysis testing for an enrollee exceeds 24 tests in any 12-month period.

(b) This section does not apply to managed care plans or county-based purchasing plans when the plan is providing coverage to public health care program enrollees under chapter 256B or 256L.

**EFFECTIVE DATE.** This section is effective January 1, 2022, and applies to health plans offered, issued, or renewed on or after that date.

Sec. 17. Minnesota Statutes 2020, section 256B.0625, subdivision 10, is amended to read:

Subd. 10. **Laboratory and x-ray services.** (a) Medical assistance covers laboratory and x-ray services.

(b) Medical assistance covers screening and urinalysis tests for opioids without lifetime or annual limits.

**EFFECTIVE DATE.** This section is effective January 1, 2022.

Sec. 18. **REPEALER.**

Minnesota Statutes 2020, sections 60A.98; 60A.981; and 60A.982, are repealed.

**EFFECTIVE DATE.** This section is effective August 1, 2021.
ARTICLE 4

CONSUMER PROTECTION

Section 1. Minnesota Statutes 2020, section 13.712, is amended by adding a subdivision to read:

Subd. 7. Student loan servicers. Data collected, created, received, maintained, or disseminated under chapter 58B are governed by section 58B.10.

Sec. 2. Minnesota Statutes 2020, section 47.59, subdivision 2, is amended to read:

Subd. 2. Application. Extensions of credit or purchases of extensions of credit by financial institutions under sections 47.20, 47.21, 47.201, 47.204, 47.58, 47.60, 48.153, 48.185, 48.195, 59A.01 to 59A.15, 334.01, 334.011, 334.012, 334.022, 334.06, and 334.061 to 334.19 may, but need not, be made according to those sections in lieu of the authority set forth in this section to the extent those sections authorize the financial institution to make extensions of credit or purchase extensions of credit under those sections. If a financial institution elects to make an extension of credit or to purchase an extension of credit under those other sections, the extension of credit or the purchase of an extension of credit is subject to those sections and not this section, except this subdivision, and except as expressly provided in those sections. A financial institution may also charge an organization a rate of interest and any charges agreed to by the organization and may calculate and collect finance and other charges in any manner agreed to by that organization. Except for extensions of credit a financial institution elects to make under section 334.01, 334.011, 334.012, 334.022, 334.06, or 334.061 to 334.19, chapter 334 does not apply to extensions of credit made according to this section or the sections listed in this subdivision. This subdivision does not authorize a financial institution to extend credit or purchase an extension of credit under any of the sections listed in this subdivision if the financial institution is not authorized to do so under those sections. A financial institution extending credit under any of the sections listed in this subdivision shall specify in the promissory note, contract, or other loan document the section under which the extension of credit is made.

EFFECTIVE DATE. This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.

Sec. 3. Minnesota Statutes 2020, section 47.60, subdivision 2, is amended to read:

Subd. 2. Authorization, terms, conditions, and prohibitions. (a) In lieu of the interest, finance charges, or fees in any other law, A consumer small loan lender may charge the following: interest, finance charges, and fees. The sum of any interest, finance charges, and
fees must not exceed an annual percentage rate, as defined in section 47.59, subdivision 1, paragraph (b), of 36 percent.

(1) on any amount up to and including $50, a charge of $5.50 may be added;

(2) on amounts in excess of $50, but not more than $100, a charge may be added equal to ten percent of the loan proceeds plus a $5 administrative fee;

(3) on amounts in excess of $100, but not more than $250, a charge may be added equal to seven percent of the loan proceeds with a minimum of $10 plus a $5 administrative fee;

(4) for amounts in excess of $250 and not greater than the maximum in subdivision 1, paragraph (a), a charge may be added equal to six percent of the loan proceeds with a minimum of $17.50 plus a $5 administrative fee.

(b) The term of a loan made under this section shall be for no more than 30 calendar days.

(c) After maturity, the contract rate must not exceed 2.75 percent per month of the remaining loan proceeds after the maturity date calculated at a rate of 1/30 of the monthly rate in the contract for each calendar day the balance is outstanding.

(d) No insurance charges or other charges must be permitted to be charged, collected, or imposed on a consumer small loan except as authorized in this section.

(e) On a loan transaction in which cash is advanced in exchange for a personal check, a return check charge may be charged as authorized by section 604.113, subdivision 2, paragraph (a). The civil penalty provisions of section 604.113, subdivision 2, paragraph (b), may not be demanded or assessed against the borrower.

(f) A loan made under this section must not be repaid by the proceeds of another loan made under this section by the same lender or related interest. The proceeds from a loan made under this section must not be applied to another loan from the same lender or related interest. No loan to a single borrower made pursuant to this section shall be split or divided and no single borrower shall have outstanding more than one loan with the result of collecting a higher charge than permitted by this section or in an aggregate amount of principal exceed at any one time the maximum of $350.

**EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.
Sec. 4. Minnesota Statutes 2020, section 47.601, subdivision 2, is amended to read:

Subd. 2. Consumer short-term loan contract. (a) No contract or agreement between a consumer short-term loan lender and a borrower residing in Minnesota may contain the following:

(1) a provision selecting a law other than Minnesota law under which the contract is construed or enforced;

(2) a provision choosing a forum for dispute resolution other than the state of Minnesota;

or

(3) a provision limiting class actions against a consumer short-term lender for violations of subdivision 3 or for making consumer short-term loans:

(i) without a required license issued by the commissioner; or

(ii) in which interest rates, fees, charges, or loan amounts exceed those allowable under section 47.59, subdivision 6, or 47.60, subdivision 2, other than by de minimis amounts if no pattern or practice exists.

(b) Any provision prohibited by paragraph (a) is void and unenforceable.

(c) A consumer short-term loan lender must furnish a copy of the written loan contract to each borrower. The contract and disclosures must be written in the language in which the loan was negotiated with the borrower and must contain:

(1) the name; address, which may not be a post office box; and telephone number of the lender making the consumer short-term loan;

(2) the name and title of the individual employee or representative who signs the contract on behalf of the lender;

(3) an itemization of the fees and interest charges to be paid by the borrower;

(4) in bold, 24-point type, the annual percentage rate as computed under United States Code, chapter 15, section 1606; and

(5) a description of the borrower's payment obligations under the loan.

(d) The holder or assignee of a check or other instrument evidencing an obligation of a borrower in connection with a consumer short-term loan takes the instrument subject to all claims by and defenses of the borrower against the consumer short-term lender.

EFFECTIVE DATE. This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.
Sec. 5. Minnesota Statutes 2020, section 47.601, subdivision 6, is amended to read:

Subd. 6. Penalties for violation; private right of action. (a) Except for a "bona fide error" as set forth under United States Code, chapter 15, section 1640, subsection (c), an individual or entity who violates subdivision 2 or 3 is liable to the borrower for:

1. all money collected or received in connection with the loan;
2. actual, incidental, and consequential damages;
3. statutory damages of up to $1,000 per violation;
4. costs, disbursements, and reasonable attorney fees; and
5. injunctive relief.

(b) In addition to the remedies provided in paragraph (a), a loan is void, and the borrower is not obligated to pay any amounts owing if the loan is made:

1. by a consumer short-term lender who has not obtained an applicable license from the commissioner;
2. in violation of any provision of subdivision 2 or 3; or
3. in which interest, fees, charges, or loan amounts exceed the interest, fees, charges, or loan amounts allowable under sections 47.59, subdivision 6, and section 47.60, subdivision 2.

EFFECTIVE DATE. This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.

Sec. 6. Minnesota Statutes 2020, section 48.512, subdivision 2, is amended to read:

Subd. 2. Required information. Before opening or authorizing signatory power over a transaction account, a financial intermediary shall require one applicant to provide the following information on an application document signed by the applicant:

(a) full name;
(b) birth date;
(c) address of residence;
(d) address of current employment, if employed;
(e) telephone numbers of residence and place of employment, if any;
(f) Social Security number;
(g) driver's license or identification card number issued pursuant to section 171.07. If the applicant does not have a driver's license or identification card, the applicant may provide an identification document number issued for identification purposes by any state, federal, or foreign government if the document includes the applicant's photograph, full name, birth date, and signature. A valid Wisconsin driver's license without a photograph may be accepted in satisfaction of the requirement of this paragraph until January 1, 1985;

(h) whether the applicant has had a transaction account at the same or another financial intermediary within 12 months immediately preceding the application, and if so, the name of the financial intermediary;

(i) whether the applicant has had a transaction account closed by a financial intermediary without the applicant's consent within 12 months immediately preceding the application, and if so, the reason the account was closed; and

(j) whether the applicant has been convicted of a criminal offense because of the use of a check or other similar item within 24 months immediately preceding the application.

A financial intermediary may require an applicant to disclose additional information.

An applicant who makes a false material statement that the applicant does not believe to be true in an application document with respect to information required to be provided by this subdivision is guilty of perjury. The financial intermediary shall notify the applicant of the provisions of this paragraph.

Sec. 7. Minnesota Statutes 2020, section 48.512, subdivision 3, is amended to read:

Subd. 3. **Confirm no involuntary closing.** (a) Before opening or authorizing signatory power over a transaction account, the financial intermediary shall attempt to verify the information disclosed for subdivision 2, clause (i). Inquiries made to verify this information through persons in the business of providing such information must include an inquiry based on the applicant's identification number provided under subdivision 2, clause (g).

(b) The financial intermediary may not open or authorize signatory power over a transaction account if (i) the applicant had a transaction account closed by a financial intermediary without consent because of issuance by the applicant of dishonored checks within 12 months immediately preceding the application, or (ii) the applicant has been convicted of a criminal offense because of the use of a check or other similar item within 24 months immediately preceding the application. This paragraph does not apply to programs designed to expand access to financial services to individuals who do not possess a transaction account.
If the transaction account is refused pursuant to this subdivision, the reasons for the refusal shall be given to the applicant in writing and the applicant shall be allowed to provide additional information.

Sec. 8. Minnesota Statutes 2020, section 48.512, subdivision 7, is amended to read:

Subd. 7. Transaction account service charges and charges relating to dishonored checks. (a) The establishment of transaction account service charges and the amounts of the charges not otherwise limited or prescribed by law or rule is a business decision to be made by each financial intermediary according to sound business judgment and safe, sound financial institution operational standards. In establishing transaction account service charges, the financial intermediary may consider, but is not limited to considering:

(1) costs incurred by the institution, plus a profit margin, in providing the service;

(2) the deterrence of misuse by customers of financial institution services;

(3) the establishment of the competitive position of the financial institution in accordance with the institution's marketing strategy; and

(4) maintenance of the safety and soundness of the institution.

(b) Transaction account service charges must be reasonable in relation to these considerations and should be arrived at by each financial intermediary on a competitive basis and not on the basis of any agreement, arrangement, undertaking, or discussion with other financial intermediaries or their officers.

(c) A financial intermediary may not impose a service charge in excess of $4-$10 for a dishonored check on any person other than the issuer of the check.

Sec. 9. Minnesota Statutes 2020, section 53.04, subdivision 3a, is amended to read:

Subd. 3a. Loans. (a) The right to make loans, secured or unsecured, at the rates and on the terms and other conditions permitted under chapters 47 and 334. Loans made under this authority must be in amounts in compliance with section 53.05, clause (7). A licensee making a loan under this chapter secured by a lien on real estate shall comply with the requirements of section 47.20, subdivision 8. A licensee making a loan that is a consumer small loan, as defined in section 47.60, subdivision 1, paragraph (a), must comply with section 47.60. A licensee making a loan that is a consumer short-term loan, as defined in section 47.601, subdivision 1, paragraph (d), must comply with section 47.601.
(b) Loans made under this subdivision may be secured by real or personal property, or both. If the proceeds of a loan secured by a first lien on the borrower's primary residence are used to finance the purchase of the borrower's primary residence, the loan must comply with the provisions of section 47.20.

(c) An agency or instrumentality of the United States government or a corporation otherwise created by an act of the United States Congress or a 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, that engages in the business of purchasing or taking assignments of mortgage loans and undertakes direct collection of payments from or enforcement of rights against borrowers arising from mortgage loans, is not required to obtain a certificate of authorization under this chapter in order to purchase or take assignments of mortgage loans from persons holding a certificate of authorization under this chapter.

(d) This subdivision does not authorize an industrial loan and thrift company to make loans under an overdraft checking plan.

EFFECTIVE DATE. This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.

Sec. 10. Minnesota Statutes 2020, section 56.131, subdivision 1, is amended to read:

Subdivision 1. Interest rates and charges. (a) On any loan in a principal amount not exceeding $100,000 or 15 percent of a Minnesota corporate licensee's capital stock and surplus as defined in section 53.015, if greater, a licensee may contract for and receive interest, finance charges, and other charges as provided in section 47.59.

(b) Notwithstanding paragraph (a), a licensee making a loan that is a consumer small loan, as defined in section 47.60, subdivision 1, paragraph (a), must comply with section 47.60. A licensee making a loan that is a consumer short-term loan, as defined in section 47.601, subdivision 1, paragraph (d), must comply with section 47.601.

(b) (c) With respect to a loan secured by an interest in real estate, and having a maturity of more than 60 months, the original schedule of installment payments must fully amortize the principal and interest on the loan. The original schedule of installment payments for any other loan secured by an interest in real estate must provide for payment amounts that are sufficient to pay all interest scheduled to be due on the loan.
A licensee may contract for and collect a delinquency charge as provided for in section 47.59, subdivision 6, paragraph (a), clause (4).

A licensee may grant extensions, deferments, or conversions to interest-bearing as provided in section 47.59, subdivision 5.

**EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to consumer short-term loans and small loans originated on or after that date.

Sec. 11. **[58B.01] TITLE.**

This chapter may be cited as the "Student Loan Borrower Bill of Rights."

Sec. 12. **[58B.02] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of this chapter, the following terms have the meanings given them.

Subd. 2. **Borrower.** "Borrower" means a resident of this state who has received or agreed to pay a student loan or a person who shares responsibility with a resident for repaying a student loan.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 4. **Financial institution.** "Financial institution" means any of the following organized under the laws of this state, any other state, or the United States: a bank, bank and trust, trust company with banking powers, savings bank, savings association, or credit union.

Subd. 5. **Person in control.** "Person in control" means any member of senior management, including owners or officers, and other persons who directly or indirectly possess the power to direct or cause the direction of the management policies of an applicant or student loan servicer under this chapter, regardless of whether the person has any ownership interest in the applicant or student loan servicer. Control is presumed to exist if a person directly or indirectly owns, controls, or holds with power to vote ten percent or more of the voting stock of an applicant or student loan servicer or of a person who owns, controls, or holds with power to vote ten percent or more of the voting stock of an applicant or student loan servicer.

Subd. 6. **Servicing.** "Servicing" means:
(1) receiving any scheduled periodic payments from a borrower or notification of payments, and applying payments to the borrower's account pursuant to the terms of the student loan or of the contract governing servicing;

(2) during a period when no payment is required on a student loan, maintaining account records for the loan and communicating with the borrower regarding the loan, on behalf of the loan's holder; and

(3) interacting with a borrower, including activities to help prevent default on obligations arising from student loans, conducted to facilitate the requirements in clauses (1) and (2).

Subd. 7. Student loan. "Student loan" means a government, commercial, or foundation loan for actual costs paid for tuition and reasonable education and living expenses.

Subd. 8. Student loan servicer. "Student loan servicer" means any person, wherever located, responsible for the servicing of any student loan to any borrower, including a nonbank covered person, as defined in Code of Federal Regulations, title 12, section 1090.101, who is responsible for the servicing of any student loan to any borrower.

Sec. 13. [58B.03] LICENSING OF STUDENT LOAN SERVICERS.

Subdivision 1. License required. No person shall directly or indirectly act as a student loan servicer without first obtaining a license from the commissioner.

Subd. 2. Exempt persons. The following persons are exempt from the requirements of this chapter:

(1) a financial institution;

(2) a person servicing student loans made with the person's own funds if no more than three such student loans are made in any 12-month period;

(3) an agency, instrumentality, or political subdivision of this state that makes, services, or guarantees student loans;

(4) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction;

(5) the University of Minnesota; or

(6) a person exempted by order of the commissioner.

Subd. 3. Application for licensure. (a) Any person seeking to act within the state as a student loan servicer must apply for a license in a form and manner specified by the commissioner. At a minimum, the application must include:
(1) a financial statement prepared by a certified public accountant or a public accountant;

(2) the history of criminal convictions, excluding traffic violations, for persons in control of the applicant;

(3) any information requested by the commissioner related to the history of criminal convictions disclosed under clause (2);

(4) a nonrefundable license fee established by the commissioner; and

(5) a nonrefundable investigation fee established by the commissioner.

(b) The commissioner may conduct a state and national criminal history records check of the applicant and of each person in control or employee of the applicant.

Subd. 4. Issuance of a license. (a) Upon receipt of a complete application for an initial license and the payment of fees for a license and investigation, the commissioner must investigate the financial condition and responsibility, character, financial and business experience, and general fitness of the applicant. The commissioner may issue a license if the commissioner finds that:

(1) the applicant's financial condition is sound;

(2) the applicant's business will be conducted honestly, fairly, equitably, carefully, and efficiently within the purposes and intent of this chapter;

(3) each person in control of the applicant is in all respects properly qualified and of good character;

(4) no person, on behalf of the applicant, has knowingly made any incorrect statement of a material fact in the application, or in any report or statement made pursuant to this section;

(5) no person, on behalf of the applicant, has knowingly omitted any information required by the commissioner from an application, report, or statement made pursuant to this section;

(6) the applicant has paid the fees required under this section; and

(7) the application has met other similar requirements as determined by the commissioner.

(b) A license issued under this chapter is not transferable or assignable.

Subd. 5. Notification of a change in status. An applicant or student loan servicer must notify the commissioner in writing of any change in the information provided in its initial application for a license or its most recent renewal application for such a license. The
58.1 notification must be received no later than ten business days after an event that results in the information becoming inaccurate.

58.3 **Subd. 6. Term of license.** Licenses issued under this chapter expire on December 31 of each year and are renewable on January 1.

58.5 **Subd. 7. Exemption from application.** (a) A person is exempt from the application procedures under subdivision 3 if the commissioner determines that the person is servicing student loans in this state pursuant to a contract awarded by the United States Secretary of Education under United States Code, title 20, section 1087f. Documentation of eligibility for this exemption shall be in a form and manner determined by the commissioner.

58.12 (b) A person determined to be eligible for the exemption under paragraph (a) shall, upon payment of the fees under subdivision 3, be issued a license and deemed to meet all of the requirements of subdivision 4.

58.19 **Subd. 8. Notice.** (a) A person issued a license under subdivision 7 must provide the commissioner with written notice no less than seven days after the person's contract under United States Code, title 20, section 1087f, expires, is revoked, or is terminated.

58.22 (b) A person issued a license under subdivision 7 has 30 days from the date the notification under paragraph (a) is provided to complete the requirements of subdivision 3. If a person does not meet the requirements of subdivision 3 within this time period, the commissioner shall immediately suspend the person's license under this chapter.

58.24 **Sec. 14. [58B.04] LICENSING MULTIPLE PLACES OF BUSINESS.**

58.26 A person licensed to act as a student loan servicer in this state may not do so under any other name or at any other place of business than that named in the license. Any time a student loan servicer changes the location of the servicer's place of business, the servicer must provide prior written notice to the commissioner. A student loan servicer may not maintain more than one place of business under the same license. The commissioner may issue more than one license to the same student loan servicer, provided that the servicer complies with the application procedures in section 58B.03 for each license.

58.32 **Sec. 15. [58B.05] LICENSE RENEWAL.**

58.34 Subdivision 1. **Term.** Licenses are renewable on January 1 of each year.

58.36 Subd. 2. **Timely renewal.** (a) A person whose application is properly and timely filed who has not received notice of denial of renewal is considered approved for renewal. The person may continue to act as a student loan servicer whether or not the renewed license
has been received on or before January 1 of the renewal year. Application for renewal of a
license is considered timely filed if received by the commissioner, or mailed with proper
postage and postmarked, by the December 15 before the renewal year. An application for
renewal is considered properly filed if made upon forms duly executed, accompanied by
fees prescribed by this chapter, and containing any information that the commissioner
requires.

(b) A person who fails to make a timely application for renewal of a license and who
has not received the renewal license as of January 1 of the renewal year is unlicensed until
the renewal license has been issued by the commissioner and is received by the person.

Subd. 3. Contents of renewal application. An application for renewal of an existing
license must contain the information specified in section 58B.03, subdivision 3, however,
only the requested information having changed from the most recent prior application need
be submitted.

Subd. 4. Cancellation. A student loan servicer ceasing an activity or activities regulated
by this chapter and desiring to no longer be licensed shall inform the commissioner in writing
and, at the same time, surrender the license and all other symbols or indicia of licensure.
The licensee shall include a plan for the withdrawal from student loan servicing, including
a timetable for the disposition of the student loans being serviced.

Subd. 5. Renewal fees. The following fees must be paid to the commissioner for a
renewal license:

(1) a nonrefundable renewal license fee established by the commissioner; and

(2) a nonrefundable renewal investigation fee established by the commissioner.

Sec. 16. [58B.06] DUTIES OF STUDENT LOAN SERVICERS.

Subdivision 1. Response requirements. Upon receiving a written communication from
a borrower, a student loan servicer must:

(1) acknowledge receipt of the communication in less than ten days; and

(2) provide information relating to the communication and, if applicable, the action the
student loan servicer will take to either (i) correct the borrower's issue or (ii) explain why
the issue cannot be corrected. The information must be provided less than 30 days after the
date the written communication was received by the student loan servicer.

Subd. 2. Overpayments. A student loan servicer must ask a borrower in what manner
the borrower would like any overpayment, meaning a payment on a student loan that exceeds
the monthly amount due, to be applied to a student loan. A borrower's instruction regarding
the application of overpayments is effective for the term of the loan or until the borrower
provides a different instruction.

Subd. 3. Partial payments. A student loan servicer must apply a partial payment,
meaning a payment that is less than the amount due on a student loan, in a manner intended
to minimize late fees and the negative impact on the borrower's credit history. If a borrower
has multiple student loans with the same student loan servicer, upon receipt of a partial
payment, the servicer must apply the payments to satisfy as many individual loan payments
as possible.

Subd. 4. Transfer of student loan. (a) If a borrower's student loan servicer changes
pursuant to the sale, assignment, or transfer of the servicing, the original student loan servicer
must:

(1) require the new student loan servicer to honor all benefits that were made available,
or which may have become available, to a borrower from the original student loan servicer;

and

(2) transfer to the new student loan servicer all information regarding the borrower, the
account of the borrower, and the borrower's student loan, including but not limited to the
repayment status of the student loan and the benefits described in clause (1).

(b) The student loan servicer must complete the transfer under paragraph (a), clause (2),
less than 45 days from the date of the sale, assignment, or transfer of the servicing.

(c) A sale, assignment, or transfer of the servicing must be completed no less than seven
days from the date the next payment is due on the student loan.

(d) A new student loan servicer must adopt policies and procedures to verify that the
original student loan servicer has met the requirements of paragraph (a).

Subd. 5. Income-driven repayment. A student loan servicer must evaluate a borrower
for eligibility for an income-driven repayment program before placing a borrower in
forbearance or default.

Subd. 6. Records. A student loan servicer must maintain adequate records of each student
loan for not less than two years following the final payment on the student loan or the sale,
assignment, or transfer of the servicing.

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to student loan
contracts executed on or after that date.
Sec. 17. [58B.07] PROHIBITED CONDUCT.

Subdivision 1. Misleading borrowers. A student loan servicer must not directly or indirectly attempt to mislead a borrower.

Subd. 2. Misrepresentation. A student loan servicer must not engage in any unfair or deceptive practice or misrepresent or omit any material information in connection with the servicing of a student loan, including but not limited to misrepresenting the amount, nature, or terms of any fee or payment due or claimed to be due on a student loan, the terms and conditions of the loan agreement, or the borrower's obligations under the loan.

Subd. 3. Misapplication of payments. A student loan servicer must not knowingly or negligently misapply student loan payments.

Subd. 4. Inaccurate information. A student loan servicer must not knowingly or negligently provide inaccurate information to any consumer reporting agency.

Subd. 5. Reporting of payment history. A student loan servicer must not fail to report both the favorable and unfavorable payment history of the borrower to a consumer reporting agency at least annually, if the student loan servicer regularly reports such information.

Subd. 6. Refusal to communicate with a borrower's representative. A student loan servicer must not refuse to communicate with a representative of the borrower who provides a written authorization signed by the borrower, provided the student loan servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the borrower.

Subd. 7. False statements and omissions. A student loan servicer must not knowingly or negligently make any false statement or omission of material fact in connection with any application, information, or reports filed with the commissioner or any other federal, state, or local government agency.

Subd. 8. Noncompliance with applicable laws. A student loan servicer must not violate any other federal, state, or local laws, including those related to fraudulent, coercive, or dishonest practices.

Subd. 9. Incorrect information regarding student loan forgiveness. A student loan servicer must not misrepresent the availability of student loan forgiveness for which the servicer has reason to know the borrower is eligible. This includes but is not limited to student loan forgiveness programs specific to military borrowers, borrowers working in public service, or borrowers with disabilities.
Subd. 10. **Compliance with servicer duties.** A student loan servicer must comply with its duties and obligations under section 58B.06.

Sec. 18. **[58B.08] EXAMINATIONS.**

Under this chapter, the commissioner has the same powers with respect to examinations of student loan servicers that the commissioner has under section 46.04.

Sec. 19. **[58B.09] DENIAL; SUSPENSION; REVOCATION OF LICENSES.**

Subdivision 1. **Powers of commissioner.** (a) The commissioner may by order take any or all of the following actions:

1. bar a person from engaging in student loan servicing;
2. deny, suspend, or revoke a student loan servicer license;
3. censure a student loan servicer;
4. impose a civil penalty as provided in section 45.027, subdivision 6;
5. order restitution to the borrower, if applicable; or
6. revoke an exemption.

(b) In order to take the action in paragraph (a), the commissioner must find:

1. that the order is in the public interest; and
2. that the student loan servicer, applicant, person in control, employee, or agent has:
   
   i. violated any provision of this chapter or rule or order under this chapter;
   
   ii. violated a standard of conduct or engaged in a fraudulent, coercive, deceptive, or dishonest act or practice, whether or not the act or practice involves student loan servicing, including but not limited to negligently making a false statement or knowingly omitting a material fact;
   
   iii. engaged in an act or practice, whether or not the act or practice involves student loan servicing, that demonstrates untrustworthiness, financial irresponsibility, or incompetence;
   
   iv. pled guilty or nolo contendere to or been convicted of a felony, gross misdemeanor, misdemeanor, or misdemeanor;
   
   v. paid a civil penalty or been the subject of a disciplinary action by the commissioner, order of suspension or revocation, cease and desist order, injunction order, or order barring
involvement in an industry or profession issued by the commissioner or any other federal, state, or local government agency;

(vi) been found by a court of competent jurisdiction to have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit;

(vii) refused to cooperate with an investigation or examination by the commissioner;

(viii) failed to pay any fee or assessment imposed by the commissioner; or

(ix) failed to comply with state and federal tax obligations.

Subd. 2. Orders of the commissioner. To begin a proceeding under this section, the commissioner shall issue an order requiring the subject of the proceeding to show cause why action should not be taken against the person according to this section. The order must be calculated to give reasonable notice of the time and place for the hearing and must state the reasons for entry of the order. The commissioner may by order summarily suspend a license or exemption or summarily bar a person from engaging in student loan servicing pending a final determination of an order to show cause. If a license or exemption is summarily suspended or if the person is summarily barred from any involvement in the servicing of student loans, pending final determination of an order to show cause, a hearing on the merits must be held within 30 days of the issuance of the order of summary suspension or bar. All hearings must be conducted under chapter 14. After the hearing, the commissioner shall enter an order disposing of the matter as the facts require. If the subject of the order fails to appear at a hearing after having been duly notified, the person is considered in default and the proceeding may be determined against the subject of the order upon consideration of the order to show cause, the allegations of which may be considered to be true.

Subd. 3. Actions against lapsed license. If a license or certificate of exemption lapses; is surrendered, withdrawn, or terminated; or otherwise becomes ineffective, the commissioner may institute a proceeding under this subdivision within two years after the license or certificate of exemption was last effective and enter a revocation or suspension order as of the last date on which the license or certificate of exemption was in effect, and may impose a civil penalty as provided for in this section or section 45.027, subdivision 6.

Sec. 20. [58B.10] DATA PRACTICES.

Subdivision 1. Classification of data. Data collected, created, received, maintained, or disseminated by the Department of Commerce under this chapter are governed by section 46.07.
Subd. 2. Data sharing. To the extent data collected, created, received, maintained, or disseminated under this chapter are not public data as defined by section 13.02, subdivision 8a, such data may, when necessary to accomplish the purpose of this chapter, be shared between:

1. the United States Department of Education;
2. the Office of Higher Education;
3. the Department of Commerce;
4. the Office of the Attorney General; and
5. any other local, state, and federal law enforcement agencies.

Sec. 21. Minnesota Statutes 2020, section 65B.15, subdivision 1, is amended to read:

Subdivision 1. Grounds and notice. No cancellation or reduction in the limits of liability of coverage during the policy period of any policy shall be effective unless notice thereof is given and unless based on one or more reasons stated in the policy which shall be limited to the following:

1. nonpayment of premium; or
2. the policy was obtained through a material misrepresentation; or
3. any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or
4. the named insured failed to disclose fully motor vehicle accidents and moving traffic violations of the named insured for the preceding 36 months if called for in the written application; or
5. the named insured failed to disclose in the written application any requested information necessary for the acceptance or proper rating of the risk; or
6. the named insured knowingly failed to give any required written notice of loss or notice of lawsuit commenced against the named insured, or, when requested, refused to cooperate in the investigation of a claim or defense of a lawsuit; or
7. the named insured or any other operator who either resides in the same household, or customarily operates an automobile insured under such policy, unless the other operator is identified as a named insured in another policy as an insured:

(a) has, within the 36 months prior to the notice of cancellation, had that person's driver's license under suspension or revocation because the person committed a moving traffic
violation or because the person refused to be tested under section 169A.20, subdivision 1;

or

(b) is or becomes subject to epilepsy or heart attacks, and such individual does not
produce a written opinion from a physician testifying to that person's medical ability to
operate a motor vehicle safely, such opinion to be based upon a reasonable medical
probability; or

(c) has an accident record, conviction record (criminal or traffic), physical condition or
mental condition, any one or all of which are such that the person's operation of an automobile
might endanger the public safety; or

d) has been convicted, or forfeited bail, during the 24 months immediately preceding
the notice of cancellation for criminal negligence in the use or operation of an automobile,
or assault arising out of the operation of a motor vehicle, or operating a motor vehicle while
in an intoxicated condition or while under the influence of drugs; or leaving the scene of
an accident without stopping to report; or making false statements in an application for a
driver's license, or theft or unlawful taking of a motor vehicle; or

(e) has been convicted of, or forfeited bail for, one or more violations within the 18
months immediately preceding the notice of cancellation, of any law, ordinance, or rule
which justify a revocation of a driver's license; or

8. the insured automobile is:

(a) so mechanically defective that its operation might endanger public safety; or

(b) used in carrying passengers for hire or compensation, provided however that the use
of an automobile for a car pool or a private passenger vehicle used by a volunteer driver as
defined under section 65B.472, subdivision 1, paragraph (h), shall not be considered use of
an automobile for hire or compensation; or

(c) used in the business of transportation of flammables or explosives; or

(d) an authorized emergency vehicle; or

(e) subject to an inspection law and has not been inspected or, if inspected, has failed
to qualify within the period specified under such inspection law; or

(f) substantially changed in type or condition during the policy period, increasing the
risk substantially, such as conversion to a commercial type vehicle, a dragster, sports car
or so as to give clear evidence of a use other than the original use.
Sec. 22. Minnesota Statutes 2020, section 65B.43, subdivision 12, is amended to read:

Subd. 12. **Commercial vehicle.** "Commercial vehicle" means:

(a) any motor vehicle used as a common carrier,

(b) any motor vehicle, other than a passenger vehicle defined in section 168.002, subdivision 24, which has a curb weight in excess of 5,500 pounds apart from cargo capacity, or

(c) any motor vehicle while used in the for-hire transportation of property.

Commercial vehicle does not include a "commuter van," which for purposes of this chapter shall mean a motor vehicle having a capacity of seven to 16 persons which is used principally to provide prearranged transportation of persons to or from their place of employment or to or from a transit stop authorized by a local transit authority which vehicle is to be operated by a person who does not drive the vehicle as a principal occupation but is driving it only to or from the principal place of employment, to or from a transit stop authorized by a local transit authority, or for personal use as permitted by the owner of the vehicle, or a private passenger vehicle driven by a volunteer driver.

Sec. 23. Minnesota Statutes 2020, section 65B.472, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) Unless a different meaning is expressly made applicable, the terms defined in paragraphs (b) through (g) have the meanings given them for the purposes of this chapter.

(b) A "digital network" means any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(c) A "personal vehicle" means a vehicle that is used by a transportation network company driver in connection with providing a prearranged ride and is:

(1) owned, leased, or otherwise authorized for use by the transportation network company driver; and

(2) not a taxicab, limousine, or for-hire vehicle, or a private passenger vehicle driven by a volunteer driver.

(d) A "prearranged ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle.
A prearranged ride does not include transportation provided using a taxicab, limousine, or other for-hire vehicle.

(e) A "transportation network company" means a corporation, partnership, sole proprietorship, or other entity that is operating in Minnesota that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides.

(f) A "transportation network company driver" or "driver" means an individual who:

(1) receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(2) uses a personal vehicle to provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

(g) A "transportation network company rider" or "rider" means an individual or persons who use a transportation network company's digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

(h) A "volunteer driver" means an individual who transports persons or goods on behalf of a nonprofit entity or governmental unit in a private passenger vehicle and receives no compensation for services provided other than the reimbursement of actual expenses.

Sec. 24. Minnesota Statutes 2020, section 174.29, subdivision 1, is amended to read:

Subdivision 1. Definition. For the purpose of sections 174.29 and 174.30 "special transportation service" means motor vehicle transportation provided on a regular basis by a public or private entity or person that is designed exclusively or primarily to serve individuals who are elderly or disabled and who are unable to use regular means of transportation but do not require ambulance service, as defined in section 144E.001, subdivision 3. Special transportation service includes but is not limited to service provided by specially equipped buses, vans, taxis, and volunteers driving private automobiles, as defined in section 65B.472. Special transportation service also means those nonemergency medical transportation services under section 256B.0625, subdivision 17, that are subject to the operating standards for special transportation service under sections 174.29 to 174.30 and Minnesota Rules, chapter 8840.
Sec. 25. Minnesota Statutes 2020, section 174.30, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** (a) The operating standards for special transportation service adopted under this section do not apply to special transportation provided by:

1. a public transit provider receiving financial assistance under sections 174.24 or 473.371 to 473.449;
2. a volunteer driver, as defined in section 65B.472, using a private automobile;
3. a school bus as defined in section 169.011, subdivision 71; or
4. an emergency ambulance regulated under chapter 144.

(b) The operating standards adopted under this section only apply to providers of special transportation service who receive grants or other financial assistance from either the state or the federal government, or both, to provide or assist in providing that service; except that the operating standards adopted under this section do not apply to any nursing home licensed under section 144A.02, to any board and care facility licensed under section 144.50, or to any day training and habilitation services, day care, or group home facility licensed under sections 245A.01 to 245A.19 unless the facility or program provides transportation to nonresidents on a regular basis and the facility receives reimbursement, other than per diem payments, for that service under rules promulgated by the commissioner of human services.

(c) Notwithstanding paragraph (b), the operating standards adopted under this section do not apply to any vendor of services licensed under chapter 245D that provides transportation services to consumers or residents of other vendors licensed under chapter 245D and transports 15 or fewer persons, including consumers or residents and the driver.

Sec. 26. Minnesota Statutes 2020, section 174.30, subdivision 10, is amended to read:

Subd. 10. **Background studies.** (a) Providers of special transportation service regulated under this section must initiate background studies in accordance with chapter 245C on the following individuals:

1. each person with a direct or indirect ownership interest of five percent or higher in the transportation service provider;
2. each controlling individual as defined under section 245A.02;
3. managerial officials as defined in section 245A.02;
4. each driver employed by the transportation service provider;
(5) each individual employed by the transportation service provider to assist a passenger
during transport; and

(6) all employees of the transportation service agency who provide administrative support,
including those who:

(i) may have face-to-face contact with or access to passengers, their personal property,
or their private data;

(ii) perform any scheduling or dispatching tasks; or

(iii) perform any billing activities.

(b) The transportation service provider must initiate the background studies required
under paragraph (a) using the online NETStudy system operated by the commissioner of
human services.

c) The transportation service provider shall not permit any individual to provide any
service or function listed in paragraph (a) until the transportation service provider has
received notification from the commissioner of human services indicating that the individual:

(1) is not disqualified under chapter 245C; or

(2) is disqualified, but has received a set-aside of that disqualification according to
sections 245C.22 and 245C.23 related to that transportation service provider.

d) When a local or contracted agency is authorizing a ride under section 256B.0625,
subdivision 17, by a volunteer driver, as defined in section 65B.472, and the agency
authorizing the ride has reason to believe the volunteer driver has a history that would
disqualify the individual or that may pose a risk to the health or safety of passengers, the
agency may initiate a background study to be completed according to chapter 245C using
the commissioner of human services' online NETStudy system, or through contacting the
Department of Human Services background study division for assistance. The agency that
initiates the background study under this paragraph shall be responsible for providing the
volunteer driver with the privacy notice required under section 245C.05, subdivision 2c,
and payment for the background study required under section 245C.10, subdivision 11,
before the background study is completed.

Sec. 27. Minnesota Statutes 2020, section 221.031, subdivision 3b, is amended to read:

Subd. 3b. Passenger transportation; exemptions. (a) A person who transports
passengers for hire in intrastate commerce, who is not made subject to the rules adopted in
section 221.0314 by any other provision of this section, must comply with the rules for
hours of service of drivers while transporting employees of an employer who is directly or
indirectly paying the cost of the transportation.

(b) This subdivision does not apply to:

(1) a local transit commission;
(2) a transit authority created by law; or
(3) persons providing transportation:

(i) in a school bus as defined in section 169.011, subdivision 71;
(ii) in a Head Start bus as defined in section 169.011, subdivision 34;
(iii) in a commuter van;
(iv) in an authorized emergency vehicle as defined in section 169.011, subdivision 3;
(v) in special transportation service certified by the commissioner under section 174.30;
(vi) that is special transportation service as defined in section 174.29, subdivision 1,
when provided by a volunteer driver, as defined in section 65B.472, operating a private
passenger vehicle as defined in section 169.011, subdivision 52;
(vii) in a limousine the service of which is licensed by the commissioner under section
221.84; or
(viii) in a taxicab, if the fare for the transportation is determined by a meter inside the
taxicab that measures the distance traveled and displays the fare accumulated.

Sec. 28. Minnesota Statutes 2020, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. Transportation costs. (a) "Nonemergency medical transportation service"
means motor vehicle transportation provided by a public or private person that serves
Minnesota health care program beneficiaries who do not require emergency ambulance
service, as defined in section 144E.001, subdivision 3, to obtain covered medical services.

(b) Medical assistance covers medical transportation costs incurred solely for obtaining
emergency medical care or transportation costs incurred by eligible persons in obtaining
emergency or nonemergency medical care when paid directly to an ambulance company,
nonemergency medical transportation company, or other recognized providers of
transportation services. Medical transportation must be provided by:

(1) nonemergency medical transportation providers who meet the requirements of this
subdivision;
(2) ambulances, as defined in section 144E.001, subdivision 2;
(3) taxicabs that meet the requirements of this subdivision;
(4) public transit, as defined in section 174.22, subdivision 7; or
(5) not-for-hire vehicles, including volunteer drivers, as defined in section 65B.472.

(c) Medical assistance covers nonemergency medical transportation provided by nonemergency medical transportation providers enrolled in the Minnesota health care programs. All nonemergency medical transportation providers must comply with the operating standards for special transportation service as defined in sections 174.29 to 174.30 and Minnesota Rules, chapter 8840, and all drivers must be individually enrolled with the commissioner and reported on the claim as the individual who provided the service. All nonemergency medical transportation providers shall bill for nonemergency medical transportation services in accordance with Minnesota health care programs criteria. Publicly operated transit systems, volunteers, and not-for-hire vehicles are exempt from the requirements outlined in this paragraph.

(d) An organization may be terminated, denied, or suspended from enrollment if:

(1) the provider has not initiated background studies on the individuals specified in section 174.30, subdivision 10, paragraph (a), clauses (1) to (3); or
(2) the provider has initiated background studies on the individuals specified in section 174.30, subdivision 10, paragraph (a), clauses (1) to (3), and:

(i) the commissioner has sent the provider a notice that the individual has been disqualified under section 245C.14; and
(ii) the individual has not received a disqualification set-aside specific to the special transportation services provider under sections 245C.22 and 245C.23.

(e) The administrative agency of nonemergency medical transportation must:

(1) adhere to the policies defined by the commissioner in consultation with the Nonemergency Medical Transportation Advisory Committee;
(2) pay nonemergency medical transportation providers for services provided to Minnesota health care programs beneficiaries to obtain covered medical services;
(3) provide data monthly to the commissioner on appeals, complaints, no-shows, canceled trips, and number of trips by mode; and
(4) by July 1, 2016, in accordance with subdivision 18e, utilize a web-based single
administrative structure assessment tool that meets the technical requirements established
by the commissioner, reconciles trip information with claims being submitted by providers,
and ensures prompt payment for nonemergency medical transportation services.

(f) Until the commissioner implements the single administrative structure and delivery
system under subdivision 18e, clients shall obtain their level-of-service certificate from the
commissioner or an entity approved by the commissioner that does not dispatch rides for
clients using modes of transportation under paragraph (i), clauses (4), (5), (6), and (7).

(g) The commissioner may use an order by the recipient's attending physician, advanced
practice registered nurse, or a medical or mental health professional to certify that the
recipient requires nonemergency medical transportation services. Nonemergency medical
transportation providers shall perform driver-assisted services for eligible individuals, when
appropriate. Driver-assisted service includes passenger pickup at and return to the individual's
residence or place of business, assistance with admittance of the individual to the medical
facility, and assistance in passenger securement or in securing of wheelchairs, child seats,
or stretchers in the vehicle.

Nonemergency medical transportation providers must take clients to the health care
provider using the most direct route, and must not exceed 30 miles for a trip to a primary
care provider or 60 miles for a trip to a specialty care provider, unless the client receives
authorization from the local agency.

Nonemergency medical transportation providers may not bill for separate base rates for
the continuation of a trip beyond the original destination. Nonemergency medical
transportation providers must maintain trip logs, which include pickup and drop-off times,
signed by the medical provider or client, whichever is deemed most appropriate, attesting
to mileage traveled to obtain covered medical services. Clients requesting client mileage
reimbursement must sign the trip log attesting mileage traveled to obtain covered medical
services.

(h) The administrative agency shall use the level of service process established by the
commissioner in consultation with the Nonemergency Medical Transportation Advisory
Committee to determine the client's most appropriate mode of transportation. If public transit
or a certified transportation provider is not available to provide the appropriate service mode
for the client, the client may receive a onetime service upgrade.

(i) The covered modes of transportation are:
(1) client reimbursement, which includes client mileage reimbursement provided to clients who have their own transportation, or to family or an acquaintance who provides transportation to the client;

(2) volunteer transport, which includes transportation by volunteers using their own vehicle;

(3) unassisted transport, which includes transportation provided to a client by a taxicab or public transit. If a taxicab or public transit is not available, the client can receive transportation from another nonemergency medical transportation provider;

(4) assisted transport, which includes transport provided to clients who require assistance by a nonemergency medical transportation provider;

(5) lift-equipped/ramp transport, which includes transport provided to a client who is dependent on a device and requires a nonemergency medical transportation provider with a vehicle containing a lift or ramp;

(6) protected transport, which includes transport provided to a client who has received a prescreening that has deemed other forms of transportation inappropriate and who requires a provider: (i) with a protected vehicle that is not an ambulance or police car and has safety locks, a video recorder, and a transparent thermoplastic partition between the passenger and the vehicle driver; and (ii) who is certified as a protected transport provider; and

(7) stretcher transport, which includes transport for a client in a prone or supine position and requires a nonemergency medical transportation provider with a vehicle that can transport a client in a prone or supine position.

(j) The local agency shall be the single administrative agency and shall administer and reimburse for modes defined in paragraph (i) according to paragraphs (m) and (n) when the commissioner has developed, made available, and funded the web-based single administrative structure, assessment tool, and level of need assessment under subdivision 18e. The local agency's financial obligation is limited to funds provided by the state or federal government.

(k) The commissioner shall:

(1) in consultation with the Nonemergency Medical Transportation Advisory Committee, verify that the mode and use of nonemergency medical transportation is appropriate;

(2) verify that the client is going to an approved medical appointment; and

(3) investigate all complaints and appeals.
The administrative agency shall pay for the services provided in this subdivision and seek reimbursement from the commissioner, if appropriate. As vendors of medical care, local agencies are subject to the provisions in section 256B.041, the sanctions and monetary recovery actions in section 256B.064, and Minnesota Rules, parts 9505.2160 to 9505.2245.

Payments for nonemergency medical transportation must be paid based on the client's assessed mode under paragraph (h), not the type of vehicle used to provide the service. The medical assistance reimbursement rates for nonemergency medical transportation services that are payable by or on behalf of the commissioner for nonemergency medical transportation services are:

1. $0.22 per mile for client reimbursement;
2. up to 100 percent of the Internal Revenue Service business deduction rate for volunteer transport;
3. equivalent to the standard fare for unassisted transport when provided by public transit, and $11 for the base rate and $1.30 per mile when provided by a nonemergency medical transportation provider;
4. $13 for the base rate and $1.30 per mile for assisted transport;
5. $18 for the base rate and $1.55 per mile for lift-equipped/ramp transport;
6. $75 for the base rate and $2.40 per mile for protected transport; and
7. $60 for the base rate and $2.40 per mile for stretcher transport, and $9 per trip for an additional attendant if deemed medically necessary.

The base rate for nonemergency medical transportation services in areas defined under RUCA to be super rural is equal to 111.3 percent of the respective base rate in paragraph (m), clauses (1) to (7). The mileage rate for nonemergency medical transportation services in areas defined under RUCA to be rural or super rural areas is:

1. for a trip equal to 17 miles or less, equal to 125 percent of the respective mileage rate in paragraph (m), clauses (1) to (7); and
2. for a trip between 18 and 50 miles, equal to 112.5 percent of the respective mileage rate in paragraph (m), clauses (1) to (7).

For purposes of reimbursement rates for nonemergency medical transportation services under paragraphs (m) and (n), the zip code of the recipient's place of residence shall determine whether the urban, rural, or super rural reimbursement rate applies.
(p) For purposes of this subdivision, "rural urban commuting area" or "RUCA" means a census-tract based classification system under which a geographical area is determined to be urban, rural, or super rural.

(q) The commissioner, when determining reimbursement rates for nonemergency medical transportation under paragraphs (m) and (n), shall exempt all modes of transportation listed under paragraph (i) from Minnesota Rules, part 9505.0445, item R, subitem (2).

Sec. 29. Minnesota Statutes 2020, section 325E.21, is amended by adding a subdivision to read:

Subd. 2b. **Purchase of catalytic converters.** (a) Any person who purchases or receives a catalytic converter must comply with this section.

(b) Every scrap metal dealer, including an agent, employee, or representative of the dealer, shall create a permanent record written in English, using an electronic record program at the time of each purchase or acquisition of a catalytic converter. The record must include:

1. the vehicle identification number of the vehicle from which the catalytic converter was removed; and

2. the name of the person who removed the catalytic converter.

(c) A scrap metal dealer must make the information under paragraphs (b) available for examination by a law enforcement agency or a person who has reported theft of a catalytic converter.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 30. Minnesota Statutes 2020, section 325E.21, is amended by adding a subdivision to read:

Subd. 2c. **Catalytic converter theft prevention pilot project.** (a) The catalytic converter theft prevention pilot project is created to deter the theft of catalytic converters by marking them with vehicle identification numbers or other unique identifiers.

(b) The commissioner shall establish a procedure to mark the catalytic converters of vehicles most likely to be targeted for theft with unique identification numbers using labels, engraving, theft deterrence paint, or other methods that permanently mark the catalytic converter without damaging its function.
(c) The commissioner shall work with law enforcement agencies, insurance companies, and scrap metal dealers to identify vehicles that are most frequently targeted for catalytic converter theft and to establish the most effective methods for marking catalytic converters.

(d) Materials purchased under this program may be distributed to dealers, as defined in section 168.002, subdivision 6, automobile repair shops and service centers, law enforcement agencies, and community organizations to arrange for the marking of the catalytic converters of vehicles most likely to be targeted for theft at no cost to the vehicle owners.

(e) The commissioner may prioritize distribution of materials to areas experiencing the highest rates of catalytic converter theft.

(f) The commissioner must make educational information resulting from the pilot program available to law enforcement agencies and scrap metal dealers and is encouraged to publicize the program to the general public.

(g) The commissioner shall include a report on the pilot project in the report required under section 65B.84, subdivision 2. The report must describe the progress, results, and any findings of the pilot project including the total number of catalytic converters marked under the program, and, to the extent known, whether any catalytic converters marked under the pilot project were stolen and the outcome of any criminal investigation into the thefts.

Sec. 31. [325E.80] ABNORMAL MARKET DISRUPTIONS; UNCONSCIONABLY EXCESSIVE PRICES.

Subdivision 1. Definitions. (a) For purposes of this section, the terms in this subdivision have the meanings given.

(b) "Abnormal market disruption" means a change in the market resulting from a natural or man-made disaster, a national or local emergency, a public health emergency, or an event resulting in a declaration of a state of emergency by the governor; and occurs when specifically declared by the governor. The governor's declaration of an abnormal market disruption must note the geographic area to which this section applies. An abnormal market disruption shall terminate no later than 30 days after the end of the state of emergency for which it was activated.

(c) "Essential consumer good or service" means a good or service vital and necessary for the health, safety, and welfare of the public, including without limitation: food, water, fuel, gasoline, shelter, transportation, health care services, pharmaceuticals, and medical, personal hygiene, sanitation, and cleaning supplies.
"Seller" means manufacturer, supplier, wholesaler, distributor, or retail seller of goods or services.

"Unconscionably excessive" means there is a gross disparity between the seller's price of a good or service, offered for sale or sold in the usual course of business, during the 30 days immediately prior to the governor's declaration of an abnormal market disruption and the seller's price of the same or similar good or service after the governor's declaration of an abnormal market disruption and the gross disparity is not substantially related to an increase in the cost of obtaining or selling the good or of providing the service. A gross disparity between the price of a good or service does not occur when the amount charged after the abnormal market disruption increased the price 30 percent or less.

Subd. 2. Prohibition. If the governor declares an abnormal market disruption a person is prohibited from selling or offering to sell an essential consumer good or service for an amount that represents an unconscionably excessive price.

Subd. 3. Civil penalty. A person who is found to have violated this section is subject to a civil penalty of not more than $1,000 per sale or transaction, with a maximum penalty of $10,000 per day.

Subd. 4. Enforcement authority. The attorney general may investigate an alleged violation of this section. The authority of the attorney general under this section includes but is not limited to the authority provided under section 8.31.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 32. Minnesota Statutes 2020, section 325F.171, is amended by adding a subdivision to read:

Subd. 5. Enforcement. This section may be enforced as provided under sections 325F.10 to 325F.12, 325F.14 to 325F.16, and 45.027, subdivisions 1, 1a, 2, 3, 4, 5, 5a, 5b, and 6. The commissioner may coordinate with the commissioner of the Pollution Control Agency and the commissioner of health in enforcing this section.

Sec. 33. Minnesota Statutes 2020, section 325F.172, is amended by adding a subdivision to read:

Subd. 4. Enforcement. Sections 325F.173 to 325F.175 may be enforced as provided under sections 325F.10 to 325F.12, 325F.14 to 325F.16, and 45.027, subdivisions 1, 1a, 2, 3, 4, 5, 5a, 5b, and 6. The commissioner may coordinate with the commissioner of the Pollution Control Agency and the commissioner of health in enforcing this section.
Sec. 34. [325F.179] ENFORCEMENT.

Sections 325F.177 and 325F.178 may be enforced as provided under sections 325F.10 to 325F.12, 325F.14 to 325F.16, and 45.027, subdivisions 1, 1a, 2, 3, 4, 5, 5a, 5b, and 6.

The commissioner may coordinate with the commissioner of the Pollution Control Agency and the commissioner of health in enforcing this section.

Sec. 35. Minnesota Statutes 2020, section 514.972, subdivision 4, is amended to read:

Subd. 4. Denial of access. Upon default, the owner shall mail notice of default as provided under section 514.974. The owner may deny the occupant access to the personal property contained in the self-service storage facility after default, service of the notice of default, expiration of the date stated for denial of access, and application of any security deposit to unpaid rent. The notice of default must state the date that the occupant will be denied access to the occupant's personal property in the self-service storage facility and that access will be denied until the owner's claim has been satisfied. The notice of default must state that any dispute regarding denial of access can be raised by the occupant beginning legal action in court. Notice of default must further state the rights of the occupant contained in subdivision 5.

Sec. 36. Minnesota Statutes 2020, section 514.972, subdivision 5, is amended to read:

Subd. 5. Access to certain items. The occupant may remove from the self-service storage facility personal papers, health aids, personal clothing of the occupant and the occupant's dependents, and personal property that is necessary for the livelihood of the occupant, that has a market value of less than $50 per item, if demand is made to any of the persons listed in section 514.976, subdivision 1. The occupant shall present a list of the items, and may remove them during the facility's ordinary business hours prior to the sale authorized by section 514.973. If the owner unjustifiably denies the occupant access for the purpose of removing the items specified in this subdivision, the occupant is entitled to an order allowing access to the storage unit for removal of the specified items. The self-service storage facility is liable to the occupant for the costs, disbursements and attorney fees expended by the occupant to obtain this order. (a) Any occupant may remove from the self-storage facility personal papers and health aids upon demand made to any of the persons listed in section 514.976, subdivision 1.

(b) An occupant who provides documentation from a government or nonprofit agency or legal aid office that the occupant is a recipient of relief based on need, is eligible for legal aid services, or is a survivor of domestic violence or sexual assault, may remove, in addition
to the items enumerated in paragraph (a), personal clothing of the occupant and the occupant's dependents, and tools of the trade that are necessary for the livelihood of the occupant, that has a market value not to exceed $125 per item.

(c) The occupant shall present a list of the items, and may remove them during the facility's ordinary business hours prior to the sale authorized by section 514.973. If the owner unjustifiably denies the occupant access for the purpose of removing the items specified in this subdivision, the occupant is entitled to request relief from the court for an order allowing access to the storage space for removal of the specified items. The self-service storage facility is liable to the occupant for the costs, disbursements, and attorney fees expended by the occupant to obtain this order.

(d) For the purposes of this subdivision, "relief based on need" includes, but is not limited to, receipt of a benefit from the Minnesota Family Investment Program and Diversionary Work Program, medical assistance, general assistance, emergency general assistance, Minnesota supplemental aid, Minnesota Supplemental Aid Housing Assistance, MinnesotaCare, Supplemental Security Income, energy assistance, emergency assistance, Supplemental Nutrition Assistance Program benefits, earned income tax credit, or Minnesota working family tax credit. Relief based on need can also be proven by providing documentation from a legal aid organization that the individual is receiving legal aid assistance, or by providing documentation from a government agency, nonprofit, or housing assistance program that the individual is receiving assistance due to domestic violence or sexual assault.

Sec. 37. Minnesota Statutes 2020, section 514.973, subdivision 3, is amended to read:

Subd. 3. Contents of notice. The notice must include:

(1) a statement of the amount owed for rent and other charges and demand for payment within a specified time not less than 14 days after delivery of the notice;

(2) pursuant to section 514.972, subdivision 4, a notice of denial of access to the storage space, if this denial is permitted under the terms of the rental agreement;

(3) the date that the occupant will be denied access to the occupant's personal property in the self-service storage facility;

(4) a statement that access will be denied until the owner's claim has been satisfied;

(5) a statement that any dispute regarding denial of access can be raised by an occupant beginning legal action in court;
the name, street address, and telephone number of the owner, or of the owner's
designated agent, whom the occupant may contact to respond to the notice;

(4) a conspicuous statement that unless the claim is paid within the time stated in
the notice, the personal property will be advertised for sale. The notice must specify the
time and place of the sale; and

(5) a conspicuous statement of the items that the occupant may remove without
charge pursuant to section 514.972, subdivision 5, if the occupant is denied general access
 to the storage space.

Sec. 38. Minnesota Statutes 2020, section 514.973, subdivision 4, is amended to read:

Subd. 4. Sale of property. (a) A sale of personal property may take place no sooner
than 45 days after default or, if the personal property is a motor vehicle or watercraft, no
sooner than 60 days after default.

(b) After the expiration of the time given in the notice, the sale must be published once
a week for two weeks consecutively in a newspaper of general circulation where the sale
is to be held. The sale may take place no sooner than 15 days after the first publication. If
the lien is satisfied before the second publication occurs, the second publication is waived.
If there is no qualified newspaper under chapter 331A where the sale is to be held, the
advertisement may be posted on an independent, publicly accessible website that advertises
self-storage lien sales or public notices. The advertisement must include a general description
of the goods, the name of the person on whose account the goods are being held, and the
time and place of the sale.

(c) A sale of the personal property must conform to the terms of the notification.

(d) A sale of the personal property must be public and must be either:

(1) held via an online auction; or

(2) held at the storage facility, or at the nearest suitable place at which the personal
property is held or stored.

Owners shall require all bidders, including online bidders, to register and agree to the rules
of the sale.

(e) The sale must be conducted in a commercially reasonable manner. A sale is
commercially reasonable if the property is sold in conformity with the practices among
dealers in the property sold or sellers of similar distressed property sales.
Sec. 39. Minnesota Statutes 2020, section 514.974, is amended to read:

**514.974 ADDITIONAL NOTIFICATION REQUIREMENT.**

Notification of the proposed sale of personal property must include a notice of denial of access to the personal property until the owner’s claim has been satisfied. Any notice the owner is required to mail to the occupant under sections 514.970 to 514.979 shall be sent to:

1. the e-mail address, if consented to by the occupant, as provided in section 514.973, subdivision 2;
2. the mailing address and any alternate mailing address provided by the occupant in the rental agreement;
3. the last known mailing address of the occupant, if the last known mailing address differs from the mailing address listed by the occupant in the rental agreement and the owner has reason to believe that the last known mailing address is more current.

Sec. 40. Minnesota Statutes 2020, section 514.977, is amended to read:

**514.977 DEFAULT ADDITIONAL REMEDIES.**

Subdivision 1. Default; breach of rental agreement. If an occupant defaults in the payment of rent for the storage space or otherwise breaches the rental agreement, the owner may commence an eviction action under chapter 504B to terminate the rental agreement, recover possession of the storage space, remove the occupant, and dispose of the stored personal property. The action shall be conducted in accordance with the Minnesota Rules of Civil Procedure except as provided in this section.

Subd. 2. Service of summons. The summons must be served at least seven days before the date of the court appearance as provided in subdivision 3.

Subd. 3. Appearance. Except as provided in subdivision 4, in an action filed under this section, the appearance shall be not less than seven or more than 14 days from the day of issuing the summons.

Subd. 4. Expedited hearing. If the owner files a motion and affidavit stating specific facts and instances in support of an allegation that the occupant is causing a nuisance or engaging in illegal or other behavior that seriously endangers the safety of others, their property, or the storage facility’s property, the appearance shall be not less than three days nor more than seven days from the date the summons is issued. The summons in an expedited hearing shall be served at least seven days before the date of the court appearance.
Subd. 5. **Answer; trial; continuance.** At the court appearance specified in the summons, the defendant may answer the complaint, and the court shall hear and decide the action, unless it grants a continuance of the trial, which may be for no longer than six days, unless all parties consent to longer continuance.

Subd. 6. **Counterclaims.** The occupant is prohibited from bringing counterclaims in the action that are unrelated to the possession of the storage space. Nothing in this section prevents the occupant from bringing the claim in a separate action.

Subd. 7. **Judgment; writ.** Judgment in matters adjudicated under this section shall be in accordance with section 504B.345, paragraph (a). Execution of a writ issued under this section shall be in accordance with section 504B.365, paragraph (a).

Sec. 41. **THIRD-PARTY FOOD DELIVERY FEES; LIMITATION.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Delivery fee" means a fee charged by a third-party food delivery service to a food and beverage establishment for a service that delivers food or beverages from the establishment to customers. The term does not include (1) any other fee that may be charged by a third-party food delivery service to a food and beverage establishment, including but not limited to fees for marketing, listing, or advertising the food and beverage establishment on the third-party food delivery service platform, or (2) fees related to processing an online order.

(c) "Food and beverage establishment" or "establishment" means a retail business that sells prepared food or beverages to the public.

(d) "Online order" means an order, including a telephone order, placed by a customer through or with the assistance of a platform provided by a third-party food delivery service.

(e) "Purchase price" means the total price of the items contained in an online order that are listed on the menu of the food and beverage establishment where the order is placed. Purchase price does not include taxes, gratuities, or other fees that may make up the total cost of a customer's online order.

(f) "Third-party food delivery service" means a platform offered through an online-enabled application, software, website, or other Internet service that offers or arranges
for the sale of food and beverages prepared by, delivered by, or picked up from a food and beverage establishment.

Subd. 2. Limitation on food delivery fees. (a) A third-party food delivery service is prohibited from:

(1) charging a food and beverage establishment a delivery fee that totals more than ten percent of an online order's purchase price;

(2) charging a food and beverage establishment any fee, other than the delivery fee described in clause (1), to use the third-party delivery service that totals more than five percent of an online order's purchase price;

(3) charging a customer a purchase price that is higher than the price set by the food and beverage establishment or, if no price is set by the food and beverage establishment, the price listed on the establishment's menu; or

(4) reducing the compensation rates paid to third-party food delivery service drivers as a result of the limitations on fees instituted by this section.

(b) A food and beverage establishment may choose, but a third-party food delivery service is prohibited from requiring, an exemption for marketing or advertising the food and beverage establishment on the third-party food delivery service platform from the limitations in paragraph (a).

Subd. 3. Enforcement by attorney general. (a) The attorney general must enforce this section under Minnesota Statutes, section 8.31.

(b) In addition to the remedies otherwise provided by law, a person injured by a violation of subdivision 2 may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney fees, and receive other equitable relief as determined by the court.

EFFECTIVE DATE. This section is effective the day following final enactment and expires 60 days after the peacetime emergency declared by the governor in an executive order that relates to the infectious disease known as COVID-19 is terminated or rescinded.
ARTICLE 5
COLLECTION AGENCIES AND DEBT BUYERS

Section 1. Minnesota Statutes 2020, section 332.31, subdivision 3, is amended to read:

Subd. 3. Collection agency. "Collection agency" or "licensee" means and includes any
(1) a person engaged in the business of collection for others any account, bill, or other
indebtedness, except as hereinafter provided; or (2) a debt buyer. It includes persons who
furnish collection systems carrying a name which simulates the name of a collection agency
and who supply forms or form letters to be used by the creditor, even though such forms
direct the debtor to make payments directly to the creditor rather than to such fictitious
agency.

Sec. 2. Minnesota Statutes 2020, section 332.31, subdivision 6, is amended to read:

Subd. 6. Collector. "Collector" is a person acting under the authority of a collection
agency under subdivision 3 or a debt buyer under subdivision 8, and on its behalf in the
business of collection for others an account, bill, or other indebtedness except as otherwise
provided in this chapter.

Sec. 3. Minnesota Statutes 2020, section 332.31, is amended by adding a subdivision to
read:

Subd. 8. Debt buyer. "Debt buyer" means a business engaged in the purchase of any
charged-off account, bill, or other indebtedness for collection purposes, whether the business
collects the account, bill, or other indebtedness, hires a third party for collection, or hires
an attorney for litigation related to the collection.

Sec. 4. Minnesota Statutes 2020, section 332.31, is amended by adding a subdivision to
read:

Subd. 9. Affiliated company. "Affiliated company" means a company that: (1) directly
or indirectly controls, is controlled by, or is under common control with another company
or companies; (2) has the same executive management team or owner that exerts control
over the business operations of the company; (3) maintains a uniform network of corporate
and compliance policies and procedures; and (4) does not engage in active collection of
debts.
Sec. 5. Minnesota Statutes 2020, section 332.311, is amended to read:

332.311 TRANSFER OF ADMINISTRATIVE FUNCTIONS.

The powers, duties, and responsibilities of the consumer services section under sections 332.31 to 332.44 relating to collection agencies and debt buyers are hereby transferred to and imposed upon the commissioner of commerce.

Sec. 6. Minnesota Statutes 2020, section 332.32, is amended to read:

332.32 EXCLUSIONS.

(a) The term "collection agency" shall not include persons whose collection activities are confined to and are directly related to the operation of a business other than that of a collection agency such as, but not limited to, banks when collecting accounts owed to the banks and when the bank will sustain any loss arising from uncollectible accounts, abstract companies doing an escrow business, real estate brokers, public officers, persons acting under order of a court, lawyers, trust companies, insurance companies, credit unions, savings associations, loan or finance companies unless they are engaged in asserting, enforcing or prosecuting unsecured claims which have been purchased from any person, firm, or association when there is recourse to the seller for all or part of the claim if the claim is not collected.

(b) The term "collection agency" shall not include a trade association performing services authorized by section 604.15, subdivision 4a, but the trade association in performing the services may not engage in any conduct that would be prohibited for a collection agency under section 332.37.

Sec. 7. Minnesota Statutes 2020, section 332.33, subdivision 1, is amended to read:

Subdivision 1. Requirement. Except as otherwise provided in this chapter, no person shall conduct within this state a collection agency or engage within this state in the business of collecting claims for others business in Minnesota as a collection agency or debt buyer, as defined in sections 332.31 to 332.44, without having first applied for and obtained a collection agency license. A person acting under the authority of a collection agency, debt buyer, or as a collector, must first register with the commissioner under this section. A registered collector may use one additional assumed name only if the assumed name is registered with and approved by the commissioner. A business that operates as a debt buyer must submit a completed license application no later than January 1, 2022. A debt buyer who has filed an application with the commissioner for a collection agency license prior to January 1, 2022, and whose application remains pending with the commissioner thereafter, Article 5 Sec. 7.
may continue to operate without a license until the commissioner approves or denies the application.

Sec. 8. Minnesota Statutes 2020, section 332.33, subdivision 2, is amended to read:

Subd. 2. **Penalty.** A person who carries on business as a collection agency or debt buyer without first having obtained a license or acts as a collector without first having registered with the commissioner pursuant to sections 332.31 to 332.44, or who carries on this business after the revocation, suspension, or expiration of a license or registration is guilty of a misdemeanor.

Sec. 9. Minnesota Statutes 2020, section 332.33, subdivision 5, is amended to read:

Subd. 5. **Collection agency License rejection.** On finding that an applicant for a collection agency license is not qualified under sections 332.31 to 332.44, the commissioner shall reject the application and shall give the applicant written notice of the rejection and the reasons for the rejection.

Sec. 10. Minnesota Statutes 2020, section 332.33, subdivision 5a, is amended to read:

Subd. 5a. **Individual collector registration.** A licensed collection agency licensee, on behalf of an individual collector, must register with the state all individuals in the collection agency's employ who are performing the duties of a collector as defined in sections 332.31 to 332.44. The collection agency licensee must apply for an individual collection registration in a form prescribed by the commissioner. The collection agency licensee shall verify on the form that the applicant has confirmed that the applicant meets the requirements to perform the duties of a collector as defined in sections 332.31 to 332.44. Upon submission of the application to the department, the individual may begin to perform the duties of a collector and may continue to do so unless the licensed collection agency licensee is informed by the commissioner that the individual is ineligible.

Sec. 11. Minnesota Statutes 2020, section 332.33, subdivision 7, is amended to read:

Subd. 7. **Changes; notice to commissioner.** (a) A licensed collection agency licensee must give the commissioner written notice of a change in company name, address, or ownership not later than ten days after the change occurs. A registered individual collector must give written notice of a change of address, name, or assumed name no later than ten days after the change occurs.
(b) Upon the death of any collection agency licensee, the license of the decedent may be transferred to the executor or administrator of the estate for the unexpired term of the license. The executor or administrator may be authorized to continue or discontinue the collection business of the decedent under the direction of the court having jurisdiction of the probate.

Sec. 12. Minnesota Statutes 2020, section 332.33, subdivision 8, is amended to read:

Subd. 8. Screening process requirement. (a) Each licensed collection agency licensee must establish procedures to follow when screening an individual collector applicant prior to submitting an applicant to the commissioner for initial registration and at renewal.

(b) The screening process for initial registration must be done at the time of hiring. The process must include a national criminal history record search, an attorney licensing search, and a county criminal history search for all counties where the applicant has resided within the five years immediately preceding the initial registration, to determine whether the applicant is eligible to be registered under section 332.35. Each licensed collection agency licensee shall use a vendor that is a member of the National Association of Professional Background Screeners, or an equivalent vendor, to conduct this background screening process.

(c) Screening for renewal of individual collector registration must include a national criminal history record search and a county criminal history search for all counties where the individual has resided during the immediate preceding year. Screening for renewal of individual collector registrations must take place no more than 60 days before the license expiration or renewal date. A renewal screening is not required if an individual collector has been subjected to an initial background screening within 12 months of the first registration renewal date. A renewal screening is required for all subsequent annual registration renewals.

(d) The commissioner may review the procedures to ensure the integrity of the screening process. Failure by a licensed collection agency licensee to establish these procedures is subject to action under section 332.40.

Sec. 13. Minnesota Statutes 2020, section 332.33, is amended by adding a subdivision to read:

Subd. 9. Affiliated companies. The commissioner must permit affiliated companies to operate under a single license and be subject to a single examination, provided that all of the affiliated company names are listed on the license.
Sec. 14. Minnesota Statutes 2020, section 332.34, is amended to read:

332.34 BOND.

The commissioner of commerce shall require each collection agency licensee to file and maintain in force a corporate surety bond, in a form to be prescribed by, and acceptable to, the commissioner, and in a sum of at least $50,000 plus an additional $5,000 for each $100,000 received by the collection agency from debtors located in Minnesota during the previous calendar year, less commissions earned by the collection agency on those collections for the previous calendar year. The total amount of the bond shall not exceed $100,000. A collection agency licensee may deposit cash in and with a depository acceptable to the commissioner in an amount and in the manner prescribed and approved by the commissioner in lieu of a bond.

Sec. 15. Minnesota Statutes 2020, section 332.345, is amended to read:

332.345 SEGREGATED ACCOUNTS.

A payment collected by a collector or collection agency on behalf of a customer shall be held by the collector or collection agency in a separate trust account clearly designated for customer funds. The account must be in a bank or other depository institution authorized or chartered under the laws of any state or of the United States. This section does not apply to a debt buyer, except to the extent the debt buyer engages in third party debt collection for others.

Sec. 16. Minnesota Statutes 2020, section 332.355, is amended to read:

332.355 AGENCY RESPONSIBILITY FOR COLLECTORS.

The commissioner may take action against a collection agency licensee for any violations of debt collection laws by its debt collectors. The commissioner may also take action against the debt collectors themselves for these same violations.

Sec. 17. Minnesota Statutes 2020, section 332.37, is amended to read:

332.37 PROHIBITED PRACTICES.

(a) No collection agency, debt buyer, or collector shall:

(1) in collection letters or publications, or in any communication, oral or written threaten wage garnishment or legal suit by a particular lawyer, unless it has actually retained the lawyer;
(2) use or employ sheriffs or any other officer authorized to serve legal papers in connection with the collection of a claim, except when performing their legally authorized duties;

(3) use or threaten to use methods of collection which violate Minnesota law;

(4) furnish legal advice or otherwise engage in the practice of law or represent that it is competent to do so;

(5) communicate with debtors in a misleading or deceptive manner by using the stationery of a lawyer, forms or instruments which only lawyers are authorized to prepare, or instruments which simulate the form and appearance of judicial process;

(6) exercise authority on behalf of a creditor client to employ the services of lawyers unless the creditor client has specifically authorized the agency in writing to do so and the agency's course of conduct is at all times consistent with a true relationship of attorney and client between the lawyer and the creditor client;

(7) publish or cause to be published any list of debtors except for credit reporting purposes, use shame cards or shame automobiles, advertise or threaten to advertise for sale any claim as a means of forcing payment thereof, or use similar devices or methods of intimidation;

(8) refuse to return any claim or claims and all valuable papers deposited with a claim or claims upon written request of the creditor client, claimant or forwarder after tender of the amounts due and owing to the collection agency within 30 days after the request; refuse or intentionally fail to account to its clients for all money collected within 30 days from the last day of the month in which the same is collected; or, refuse or fail to furnish at intervals of not less than 90 days upon written request of the claimant or forwarder, a written report upon claims received from the claimant or forwarder;

(9) operate under a name or in a manner which implies that the collection agency or debt buyer is a branch of or associated with any department of federal, state, county or local government or an agency thereof;

(10) commingle money collected for a customer with the collection agency's operating funds or use any part of a customer's money in the conduct of the collection agency's business;

(11) transact business or hold itself out as a debt prorater settlement company, debt management company, debt adjuster, or any person who settles, adjusts, prorates, pools, liquidates or pays the indebtedness of a debtor, unless there is no charge to the debtor, or
the pooling or liquidation is done pursuant to court order or under the supervision of a
creditor's committee;

(12) violate any of the provisions of the Fair Debt Collection Practices Act of 1977,
Public Law 95-109, while attempting to collect on any account, bill or other indebtedness;

(13) communicate with a debtor by use of a recorded message utilizing an automatic
dialing announcing device unless the recorded message is immediately preceded by a live
operator who discloses prior to the message the name of the collection agency and the fact
the message intends to solicit payment and the operator obtains the consent of the debtor
to hearing the message after the debtor expressly informs the agency or collector to cease
communication utilizing an automatic dialing announcing device;

(14) in collection letters or publications, or in any communication, oral or written, imply
or suggest that health care services will be withheld in an emergency situation;

(15) when a debtor has a listed telephone number, enlist the aid of a neighbor or third
party to request that the debtor contact the licensee or collector, except a person who resides
with the debtor or a third party with whom the debtor has authorized the licensee or collector
to place the request. This clause does not apply to a call back message left at the debtor's
place of employment which is limited to the licensee's or collector's telephone number and
name;

(16) when attempting to collect a debt, fail to provide the debtor with the full name of
the collection agency or debt buyer as it appears on its license or as listed on any "doing
business as" or "d/b/a" registered with the Department of Commerce;

(17) collect any money from a debtor that is not reported to a creditor or client;

(18) fail to return any amount of overpayment from a debtor to the debtor or to the state
of Minnesota pursuant to the requirements of chapter 345;

(18) (19) accept currency or coin as payment for a debt without issuing an original receipt
to the debtor and maintaining a duplicate receipt in the debtor's payment records;

(19) (20) attempt to collect any amount of money, including any interest, fee, charge,
or expense incidental to the charge-off obligation, from a debtor unless the amount is
expressly authorized by the agreement creating the debt or is otherwise permitted by law;

(21) charge a fee to a creditor client that is not authorized by agreement with the client;

(20) (22) falsify any collection agency documents with the intent to deceive a debtor,
creditor, or governmental agency;
when initially contacting a Minnesota debtor by mail, fail to include a disclosure on the contact notice, in a type size or font which is equal to or larger than the largest other type of size or font used in the text of the notice. The disclosure must state: "This collection agency is licensed by the Minnesota Department of Commerce" or "This debt buyer is licensed by the Minnesota Department of Commerce" as applicable; or

commence legal action to collect a debt outside the limitations period set forth in section 541.053.

(b) Paragraph (a), clauses (6), (8), (10), (17), and (21), do not apply to debt buyers except to the extent the debt buyer engages in third party debt collection for others.

Sec. 18. Minnesota Statutes 2020, section 332.385, is amended to read:

332.385 NOTIFICATION TO COMMISSIONER.

The collection agency or debt buyer licensee shall notify the commissioner of any employee termination within ten days of the termination if the termination is based in whole or in part based on a violation of this chapter.

Sec. 19. Minnesota Statutes 2020, section 332.40, subdivision 3, is amended to read:

Subd. 3. Commissioner's powers. (a) For the purpose of any investigation or proceeding under sections 332.31 to 332.44, the commissioner or any person designated by the commissioner may administer oaths and affirmations, subpoena collection agencies, debt buyers, or collectors and compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the commissioner deems relevant or material to the inquiry. The subpoena shall contain a written statement setting forth the circumstances which have reasonably caused the commissioner to believe that a violation of sections 332.31 to 332.44 may have occurred.

(b) In the event that the collection agency, debt buyer, or collector refuses to obey the subpoena, or should the commissioner, upon completion of the examination of the collection agency, debt buyer, or collector, reasonably conclude that a violation has occurred, the commissioner may examine additional witnesses, including third parties, as may be necessary to complete the investigation.

(c) Any subpoena issued pursuant to this section shall be served by certified mail or by personal service. Service shall be made at least 15 days prior to the date of appearance.
Sec. 20. Minnesota Statutes 2020, section 332.42, subdivision 1, is amended to read:

Subdivision 1. **Verified financial statement.** The commissioner of commerce may at any time require a collection agency licensee to submit a verified financial statement for examination by the commissioner to determine whether the collection agency licensee is financially responsible to carry on a collection agency business within the intents and purposes of sections 332.31 to 332.44.

Sec. 21. Minnesota Statutes 2020, section 332.42, subdivision 2, is amended to read:

Subd. 2. **Record keeping.** The commissioner shall require the collection agency or debt buyer licensee to keep such books and records in the licensee's place of business in this state as will enable the commissioner to determine whether there has been compliance with the provisions of sections 332.31 to 332.44, unless the agency is a foreign corporation duly authorized, admitted, and licensed to do business in this state and complies with all the requirements of chapter 303 and with all other requirements of sections 332.31 to 332.44. Every collection agency licensee shall preserve the records of final entry used in such business for a period of five years after final remittance is made on any amount placed with the licensee for collection or after any account has been returned to the claimant on which one or more payments have been made. Every debt buyer licensee must preserve the records of final entry used in such business for a period of five years after final collection of any purchased account.

Sec. 22. **GARNISHMENT PROHIBITIONS ON COVID-19 GOVERNMENT ASSISTANCE.**

(a) Federal, state, local, and tribal governmental payments issued to relieve the adverse economic impact caused by the COVID-19 pandemic are exempt from all claims for garnishments and levies of consumer debtors of debt primarily for personal, family, or household purposes governed by Minnesota Statutes, chapters 550, 551, and 571.

(b) Paragraph (a) does not apply to domestic support orders and obligations, including child support and spousal maintenance obligations, including but not limited to orders and obligations under Minnesota Statutes, chapters 518 and 518A.

(c) This section expires on December 31, 2022.

**EFFECTIVE DATE; APPLICATION.** This section is effective the day following final enactment and applies to government assistance provided on or after March 13, 2020.
ARTICLE 6

MISCELLANEOUS

Section 1. Minnesota Statutes 2020, section 45.305, subdivision 1, is amended to read:

Subdivision 1. Appraiser and Insurance Internet prelicense courses. The design and delivery of an appraiser prelicense education course or an insurance prelicense education course must be approved by the International Distance Education Certification Center (IDECC) before the course is submitted for the commissioner's approval.

Sec. 2. Minnesota Statutes 2020, section 45.305, is amended by adding a subdivision to read:

Subd. 1a. Appraiser Internet prelicense courses. The requirements for the design and delivery of an appraiser prelicense education course are the requirements established by the Appraiser Qualifications Board of the Appraisal Foundation and published in the most recent version of the Real Property Appraiser Qualification Criteria.

Sec. 3. Minnesota Statutes 2020, section 45.306, is amended by adding a subdivision to read:

Subd. 1a. Appraiser Internet continuing education courses. The requirements for the design and delivery of an appraiser continuing education course are the requirements established by the Appraiser Qualifications Board of the Appraisal Foundation and published in the most recent version of the Real Property Appraiser Qualification Criteria.

Sec. 4. Minnesota Statutes 2020, section 45.33, subdivision 1, is amended to read:

Subdivision 1. Prohibitions. In connection with an approved course, coordinators and instructors must not:

(1) recommend or promote the services or practices of a particular business;
(2) encourage or recruit individuals to engage the services of, or become associated with, a particular business;
(3) use materials, clothing, or other evidences of affiliation with a particular entity, except as provided under subdivision 3;
(4) require students to participate in other programs or services offered by the instructor, coordinator, or education provider;
(5) attempt, either directly or indirectly, to discover questions or answers on an
examination for a license;

(6) disseminate to any other person specific questions, problems, or information known
or believed to be included in licensing examinations;

(7) misrepresent any information submitted to the commissioner;

(8) fail to cover, or ensure coverage of, all points, issues, and concepts contained in the
course outline approved by the commissioner during the approved instruction; and

(9) issue inaccurate course completion certificates.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2020, section 45.33, is amended by adding a subdivision to
read:

**Subd. 3. Exceptions.** In connection with an approved course, coordinators and instructors
may:

(1) display a company or course provider’s logo or branding;

(2) establish a trade-show or conference booth outside the classroom where the
educational content is being delivered that is separate from a registration location used to
track or facilitate student attendance;

(3) display the logo or branding associated with a particular entity to thank it as an
organizational partner of the course provider during a scheduled and approved break in the
delivery of course content. Such a display must be separate from a registration location used
to track or facilitate student attendance; and

(4) display a third-party logo, promotion, advertisement, or affiliation with a particular
entity as part of a course program or advertising for an approved course. For purposes of
this subdivision, course program means digital or paper literature describing the schedule
of the events, presenters, duration, or background information of the approved course or
courses. A course program may be made available in the classroom or at a registration
location used to track or facilitate student attendance.

**EFFECTIVE DATE.** This section is effective the day following final enactment.
Sec. 6. Minnesota Statutes 2020, section 60A.71, subdivision 7, is amended to read:

Subd. 7. Duration; fees. (a) Each applicant for a reinsurance intermediary license shall pay to the commissioner a fee of $200 for an initial two-year license and a fee of $150 for each renewal. Applications shall be submitted on forms prescribed by the commissioner.

(b) Initial licenses issued under this chapter are valid for a period not to exceed 24 months and expire on October 31 of the renewal year assigned by the commissioner. Each renewal reinsurance intermediary license is valid for a period of 24 months. Licensees who submit renewal applications postmarked or delivered on or before October 15 of the renewal year may continue to transact business whether or not the renewal license has been received by November 1. Licensees who submit applications postmarked or delivered after October 15 of the renewal year must not transact business after the expiration date of the license until the renewal license has been received.

(c) All fees are nonreturnable, except that an overpayment of any fee may be refunded upon proper application.

Sec. 7. Minnesota Statutes 2020, section 79.55, subdivision 10, is amended to read:

Subd. 10. Duties of commissioner; report. The commissioner shall issue a report by March 1 of each year, comparing the average rates charged by workers' compensation insurers in the state to the pure premium base rates filed by the association, as reviewed by the Rate Oversight Commission. The Rate Oversight Commission shall review the commissioner's report and if the experience indicates that rates have not reasonably reflected changes in pure premiums, the rate oversight commission shall recommend to the legislature appropriate legislative changes to this chapter.

(a) By March 1 of each year, the commissioner must issue a report that evaluates the competitiveness of the workers' compensation market in Minnesota, in order to evaluate whether the competitive rating law is working.

(b) The report under this subdivision must (1) compare the average rates charged by workers' compensation insurers in Minnesota with the pure premium base rates filed by the association, and (2) provide market information, including but not limited to the number of carriers, market shares, the loss-cost multipliers used by companies, and the residual market and self-insurance.

(c) The commissioner must provide the report to the Rate Oversight Commission for review. If after reviewing the report the Rate Oversight Commission concludes that concerns exist regarding the competitiveness of the workers' compensation market in Minnesota, the
Rate Oversight Commission must recommend to the legislature appropriate modifications to this chapter.

Sec. 8. Minnesota Statutes 2020, section 80G.06, subdivision 1, is amended to read:

Subdivision 1. **Surety bond requirement.** (a) Every dealer shall maintain a current, valid surety bond issued by a surety company admitted to do business in Minnesota in an amount based on the transactions conducted with Minnesota consumers (purchases from and sales to consumers at retail) during the 12-month period prior to registration, or renewal, whichever is applicable.

(b) The amount of the surety bond shall be as specified in the table below:

<table>
<thead>
<tr>
<th>Transaction Amount in Preceding 12-month Period</th>
<th>Surety Bond Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>$25,000 to $200,000</td>
<td>$25,000</td>
</tr>
<tr>
<td>$200,000.01 to $500,000</td>
<td>$50,000</td>
</tr>
<tr>
<td>$500,000.01 to $1,000,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>$1,000,000.01 to $2,000,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Over $2,000,000</td>
<td>$200,000</td>
</tr>
</tbody>
</table>

Sec. 9. **[80G.11] NOTIFICATION TO COMMISSIONER.**

A dealer must notify the commissioner of any dealer representative termination within ten days of the termination if the termination is based in whole or in part on a violation of this chapter.

Sec. 10. Minnesota Statutes 2020, section 82.57, subdivision 1, is amended to read:

Subdivision 1. **Amounts.** The following fees shall be paid to the commissioner:

(a) a fee of $150 for each initial individual broker's license, and a fee of $100 for each renewal thereof;

(b) a fee of $70 for each initial salesperson's license, and a fee of $40 for each renewal thereof;

(c) a fee of $85 for each initial real estate closing agent license, and a fee of $60 for each renewal thereof;

(d) a fee of $150 for each initial corporate, limited liability company, or partnership license, and a fee of $100 for each renewal thereof;
(e) a fee for payment to the education, research and recovery fund in accordance with section 82.86;

(f) a fee of $20 for each transfer;

(g) a fee of $50 for license reinstatement;

(h) a fee of $20 for reactivating a corporate, limited liability company, or partnership license; and

(i) in addition to the fees required under this subdivision, individual licensees under clauses (a) and (b) shall pay, for each initial license and renewal, a technology surcharge of up to $40 under section 45.24, unless the commissioner has adjusted the surcharge as permitted under that section.

Sec. 11. Minnesota Statutes 2020, section 82.57, subdivision 5, is amended to read:

Subd. 5. Initial license expiration; fee reduction. If an initial license issued under subdivision 1, paragraph (a), (b), (c), or (d) expires less than 12 months after issuance, the license fee shall be reduced by an amount equal to one half the fee for a renewal of the license. An initial license issued under this chapter expires in the year that results in the term of the license being at least 12 months, but no more than 24 months.

Sec. 12. Minnesota Statutes 2020, section 82.62, subdivision 3, is amended to read:

Subd. 3. Timely renewals. A person whose application for a license renewal has not been timely submitted and who has not received notice of approval of renewal may not continue to transact business either as a real estate broker, salesperson, or closing agent after June 30 of the renewal year until approval of renewal is received. Application for renewal of a license is timely submitted if all requirements for renewal, including continuing education requirements, have been completed and reported pursuant to section 45.43, subdivision 1.

(1) all requirements for renewal, including continuing education requirements, have been completed by June 15 of the renewal year; and

(2) the application is submitted before the renewal deadline in the manner prescribed by the commissioner, duly executed and sworn to, accompanied by fees prescribed by this chapter, and containing any information the commissioner requires.
Sec. 13. Minnesota Statutes 2020, section 82.81, subdivision 12, is amended to read:

Subd. 12. **Fraudulent, deceptive, and dishonest practices.** (a) **Prohibitions.** For the purposes of section 82.82, subdivision 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

1. act on behalf of more than one party to a transaction without the knowledge and consent of all parties;
2. act in the dual capacity of licensee and undisclosed principal in any transaction;
3. 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.
4. 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, in accordance with section 82.82, subdivision 1;
5. violate any state or federal law concerning discrimination intended to protect the rights of purchasers or renters of real estate;
6. make a material misstatement in an application for a license or in any information furnished to the commissioner;
7. procure or attempt to procure a real estate license for himself or herself or any person by fraud, misrepresentation, or deceit;
8. represent membership in any real estate-related organization in which the licensee is not a member;
9. advertise in any manner that is misleading or inaccurate with respect to properties, terms, values, policies, or services conducted by the licensee;
10. make any material misrepresentation or permit or allow another to make any material misrepresentation;
11. fail within a reasonable time to account for or remit any money coming into the licensee's possession which belongs to another;
12. commingle with his or her own money or property trust funds or any other money or property of another held by the licensee;
(13) a demand from a seller for a commission or compensation to which the licensee is not entitled, knowing that the individual is not entitled to the commission or compensation;

(14) 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 item does not apply to money or goods paid or given to the parties to the transaction);

(15) fail to maintain a trust account at all times, as provided by law;

(16) engage, with respect to the offer, sale, or rental of real estate, in an anticompetitive activity;

(17) represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that the individual is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client and a copy must be left with the client. The disclosure document must contain the following:

(i) the basis of fees, commissions, or other compensation received by an individual in connection with rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

(a) ... commissions generated from the products I sell you;

(b) ... fees; or

(c) ... a combination of (a) and (b). [Comments]";

(ii) the name and address of any company or firm that supplies the financial services or products offered or sold by an individual in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";
(iii) the license(s) held by the person under this chapter or chapter 60A or 80A in the following language:

"I am licensed in Minnesota as a(n):

(a) ... insurance agent;

(b) ... securities agent or broker/dealer;

(c) ... real estate broker or salesperson;

(d) ... investment adviser"; and

(iv) the specific identity of any financial products or services, by category, for example mutual funds, stocks, or limited partnerships, the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

(a) ... securities, specifically the following: [List];

(b) ... real property;

(c) ... insurance; and

(d) ... other: [List]."

(b) Determining violation. A licensee shall be deemed to have violated this section if the licensee has been found to have violated sections 325D.49 to 325D.66, by a final decision or order of a court of competent jurisdiction.

(c) Commissioner's authority. Nothing in this section limits the authority of the commissioner to take actions against a licensee for fraudulent, deceptive, or dishonest practices not specifically described in this section.

Sec. 14. Minnesota Statutes 2020, section 82B.021, is amended by adding a subdivision to read:

Subd. 14a. Evaluation. "Evaluation" means an estimate of the value of real property, made in accordance with the Interagency Appraisal and Evaluation Guidelines provided to an entity regulated by a federal financial institution's regulatory agency, for use in a real estate-related financial transaction for which an appraisal is not required by federal law.
Sec. 15. Minnesota Statutes 2020, section 82B.021, is amended by adding a subdivision to read:

Subd. 16a. **Interagency Appraisal and Evaluation Guidelines.** "Interagency Appraisal and Evaluation Guidelines" means the appraisal and evaluation guidelines provided by a federal financial institution's regulatory agency, as provided by Federal Register, volume 75, page 77450 (2010), as amended.

Sec. 16. Minnesota Statutes 2020, section 82B.021, subdivision 18, is amended to read:

Subd. 18. **Licensed real property appraiser.** "Licensed real property appraiser" means an individual licensed under this chapter to perform appraisals on noncomplex one-family to four-family residential units or agricultural property having a transactional value of less than $1,000,000 and complex one-family to four-family residential units or agricultural property having a transactional value of less than $250,000.

Sec. 17. Minnesota Statutes 2020, section 82B.03, is amended by adding a subdivision to read:

Subd. 3. **Evaluation.** A licensed real estate appraiser may provide an evaluation. When providing an evaluation, a licensed real estate appraiser is not engaged in real estate appraisal activity and is not subject to this chapter. An evaluation by a licensed real estate appraiser under this subdivision must contain a disclosure that the evaluation is not an appraisal.

Sec. 18. Minnesota Statutes 2020, section 82B.11, subdivision 3, is amended to read:

Subd. 3. **Licensed residential real property appraiser.** A licensed residential real property appraiser may appraise noncomplex residential property or agricultural property having a transaction value less than $1,000,000 and complex residential or agricultural property having a transaction value less than $250,000.

Sec. 19. Minnesota Statutes 2020, section 82B.195, is amended by adding a subdivision to read:

Subd. 5. **Evaluation.** When providing an evaluation, a licensed real estate appraiser is not required to comply with the Uniform Standards of Professional Appraisal Practice.

Sec. 20. **[82B.25] VALUATION BIAS.**

Subdivision 1. **Definition.** For the purposes of this section, "valuation bias" means to explicitly, implicitly, or structurally select data and apply that data to an appraisal.
methodology or technique in a biased manner that harms a protected class, as defined by
the Fair Housing Act of 1968, and its amendments.

Subd. 2. Education. Within two years of receiving a license under this chapter, and as
required by the Appraiser Qualifications Board, a real property appraiser shall provide
evidence of satisfactory completion to the commissioner of a continuing education course
on the valuation bias of real property.

EFFECTIVE DATE. This section is effective September 1, 2021. A real property
appraiser who has received their license prior to the effective date of this section must
complete the course required by this section by August 31, 2023.

Sec. 21. Minnesota Statutes 2020, section 115C.094, is amended to read:

115C.094 ABANDONED UNDERGROUND STORAGE TANKS.

(a) As used in this section, an abandoned underground petroleum storage tank means
an underground petroleum storage tank that was:

(1) taken out of service prior to December 22, 1988; or

(2) taken out of service on or after December 22, 1988, if the current property owner
did not know of the existence of the underground petroleum storage tank and could not have
reasonably been expected to have known of the tank's existence at the time the owner first
acquired right, title, or interest in the tank; or

(3) taken out of service and is located on property that is being held by the state in trust
for local taxing districts under section 281.25.

(b) The board may contract for:

(1) a statewide assessment in order to determine the quantity, location, cost, and feasibility
of removing abandoned underground petroleum storage tanks;

(2) the removal of an abandoned underground petroleum storage tank; and

(3) the removal and disposal of petroleum-contaminated soil if the removal is required
by the commissioner at the time of tank removal.

(c) Before the board may contract for removal of an abandoned petroleum storage tank,
the tank owner must provide the board with written access to the property and release the
board from any potential liability for the work performed.

(d) If at the time of the forfeiture of property identified under paragraph (a), clause (3),
the property owner or the owner's heirs, devisees, or representatives, or any person to whom
the right to pay taxes was granted by statute, mortgage, or other agreement, repurchases the
property under section 282.241, the board's contracted costs for the underground storage
tank removal project must be included as a special assessment included in the repurchase
price, as provided under section 282.251, and must be returned to the board upon the sale
of the property.

Money in the fund is appropriated to the board for the purposes of this section.

Sec. 22. Minnesota Statutes 2020, section 216B.62, subdivision 3b, is amended to read:

Subd. 3b. **Assessment for department regional and national duties.** In addition to
other assessments in subdivision 3, the department may assess up to $500,000 per fiscal
year for performing its duties under section 216A.07, subdivision 3a. The amount in this
subdivision shall be assessed to energy utilities in proportion to their respective gross
operating revenues from retail sales of gas or electric service within the state during the last
calendar year and shall be deposited into an account in the special revenue fund and is
appropriated to the commissioner of commerce for the purposes of section 216A.07,
subdivision 3a. An assessment made under this subdivision is not subject to the cap on
assessments provided in subdivision 3 or any other law. For the purpose of this subdivision,
an "energy utility" means public utilities, generation and transmission cooperative electric
associations, and municipal power agencies providing natural gas or electric service in the
state. This subdivision expires June 30, 2021.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 23. Minnesota Statutes 2020, section 308A.201, subdivision 12, is amended to read:

Subd. 12. **Electric cooperative powers.** (a) An electric cooperative has the power and
authority to:

(1) make loans to its members;

(2) prerefund debt;

(3) obtain funds through negotiated financing or public sale;

(4) borrow money and issue its bonds, debentures, notes, or other evidence of
indebtedness;

(5) mortgage, pledge, or otherwise hypothecate its assets as may be necessary;

(6) invest its resources;
(7) deposit money in state and national banks and trust companies authorized to receive
deposits; and

(8) exercise all other powers and authorities granted to cooperatives.

(b) A cooperative organized to provide rural electric power may enter agreements and
contracts with other electric power cooperatives or with a cooperative constituted of electric
power cooperatives to share losses and risk of losses to their transmission and distribution
lines, transformers, substations, and related appurtenances from storm, sleet, hail, tornado,
 cyclone, hurricane, or windstorm. An agreement or contract or a cooperative formed to
share losses under this paragraph is not subject to the laws of this state relating to insurance
and insurance companies.

(c) An electric cooperative, an affiliate of the cooperative formed to provide broadband,
or another entity pursuant to an agreement with the cooperative or the cooperative's affiliate
may use the cooperative, affiliate, or entity's existing or subsequently acquired electric
transmission or distribution easements for broadband infrastructure and to provide broadband
service, which may include an agreement to lease fiber capacity. To exercise rights granted
under this paragraph, the cooperative must provide to the property owner on which the
easement is located written notice that the cooperative intends to use the easement for
broadband purposes. The use of the easement for broadband services vests and runs with
the land beginning six months after notice is provided under paragraph (d), unless a court
action challenging the use of the easement for broadband purposes has been filed before
that time by the property owner as provided under paragraph (e). The cooperative must also
file evidence of the notice for recording with the county recorder.

(d) The cooperative's notice under paragraph (c) must be sent by first class mail to the
last known address of the owner of the property on which the easement is located or by
printed insertion in the property owner's utility bill. The notice must include the following:

(1) the name and mailing address of the cooperative;

(2) a narrative describing the nature and purpose of the intended easement use; and

(3) a description of any trenching or other underground work expected to result from
the intended use, including the anticipated time frame for the work.

(e) A property owner, within six months after receiving notice under paragraph (d), may
commence an action seeking to recover damages for an electric cooperative's use of an
electric transmission or distribution easement for broadband service purposes.

Notwithstanding any other law to the contrary, the procedures and substantive matters set
forth in this subdivision govern an action under this paragraph and are the exclusive means
to bring a claim for compensation with respect to a notice of intent to use a cooperative
transmission or distribution easement for broadband purposes. To commence an action
under this paragraph, the property owner must serve a complaint upon the electric cooperative
as in a civil action and file the complaint with the district court for the county in which the
easement is located. The complaint must state whether the property owner (1) is challenging
the electric cooperative's right to use the easement for broadband services or infrastructure
as authorized under paragraph (c), (2) is seeking damages as provided under paragraph (f),
or (3) both.

(f) If the property owner is seeking damages, the electric cooperative may, at any time
after answering the complaint, (1) deposit with the court administrator an amount equal to
the cooperative's estimate of damages or one dollar if damages are estimated to be not more
than nominal, and (2) after making the deposit, use the electric transmission or service line
easements for broadband purposes, conditioned on an obligation to pay the amount of
damages determined by the court. If the property owner is challenging the electric
cooperative's right to use the easement for broadband services or infrastructure as authorized
under paragraph (c), after the electric cooperative answers the complaint the district court
must promptly hold a hearing on the property owner's challenge. If the district court denies
the property owner's challenge, the electric cooperative may proceed to make a deposit and
make use of the easement for broadband service purposes, as provided under clause (2).

(g) In an action involving a property owner's claim for damages, the landowner has the
burden to prove the existence and amount of any net reduction in the fair market value of
the property, considering the existence, installation, construction, maintenance, modification,
operation, repair, replacement, or removal of broadband infrastructure in the easement, as
well as any benefit to the property from access to broadband service. Consequential or
special damages must not be awarded. Evidence of revenue, profits, fees, income, or similar
benefits to the electric cooperative, the cooperative's affiliate, or a third party is inadmissible.
Any fees or costs incurred as a result of an action under this subdivision must be paid by
the party that incurred the fees or costs.

(h) Nothing in this section limits in any way an electric cooperative's existing easement
rights, including but not limited to rights an electric cooperative has or may acquire to
transmit communications for electric system operations or otherwise.

(i) For purposes of this subdivision:
(1) "broadband service" means broadband infrastructure and any services provided over the infrastructure that offer advanced telecommunications capability and Internet access; and

(2) "broadband infrastructure" has the meaning given in section 116J.394.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 24. Minnesota Statutes 2020, section 332.33, subdivision 3, is amended to read:

Subd. 3. Term and fees. Licenses issued or renewed and registrations received by the commissioner of commerce under sections 332.31 to 332.44 shall expire on June 30. Each collection agency license shall plainly state the name and business address of the licensee, and shall be posted in a conspicuous place in the office where the business is transacted. The fee for each collection agency license is $500, and renewal is $400. The fee for each collector registration and renewal is $10, which entitles the individual collector to work at a licensee's business location or in another location as provided under subdivision 5b. An additional branch license is not required for a location used under subdivision 5b. A collection agency licensee who desires to carry on business in more than one place shall procure a license for each place where the business is to be conducted.

Sec. 25. [332.61] INFORMATIVE DISCLOSURE.

A lead generator must prominently make the following disclosure on all print, electronic, and nonprint solicitations, including advertising on websites, radio, or television: "This company does not actually provide any of the credit services you are seeking. We ONLY refer you to companies that want to provide some or all of those services."

Sec. 26. Minnesota Statutes 2020, section 386.375, subdivision 3, is amended to read:

Subd. 3. Consumer education information. (a) A person other than the mortgagor or fee owner who transfers or offers to transfer an abstract of title shall present to the mortgagor or fee owner basic information in plain English about abstracts of title. This information must be sent in a form prepared and approved by the commissioner of commerce and must contain at least the following items:

(1) a definition and description of abstracts of title;
(2) an explanation that holders of abstracts of title must maintain it with reasonable care;
(3) an approximate cost or range of costs to replace a lost or damaged abstract of title; and
(4) an explanation that abstracts of title may be required to sell, finance, or refinance real estate; and

(5) an explanation of options for storage of abstracts.

(b) The commissioner shall prepare the form for use under this subdivision as soon as possible. This subdivision does not apply until 60 days after the form is approved by the commissioner.

(c) A person violating this subdivision is subject to a penalty of $200 for each violation.

Sec. 27. APPRAISER INTERNET COURSE REQUIREMENTS.

Notwithstanding Minnesota Statutes, sections 45.305, subdivision 1a, and 45.306, subdivision 1a, education providers may submit to the commissioner of commerce for approval a classroom course under Minnesota Statutes, section 45.2, subdivision 2a, clause (3), or a distance learning course, as defined in Minnesota Statutes, section 45.25, subdivision 5a, that has not been approved by the International Distance Education Certification Center.

EFFECTIVE DATE. This section is effective the day following final enactment and expires after the peacetime emergency declared by the governor in an executive order that relates to the infectious disease known as COVID-19 is terminated or rescinded or December 31, 2021, whichever is later.

Sec. 28. MINNESOTA COUNCIL ON ECONOMIC EDUCATION.

(a) The Minnesota Council on Economic Education, with funds made available through grants from the commissioner of education in fiscal years 2022 and 2023 will:

(1) provide professional development to Minnesota's kindergarten through grade 12 teachers implementing state graduation standards in learning areas related to economic education;

(2) support the direct-to-student ancillary economic and personal finance programs that Minnesota teachers supervise and coach; and

(3) provide support to geographically diverse affiliated higher education-based centers for economic education, including those based at Minnesota State University Mankato, Minnesota State University Moorhead, St. Cloud State University, St. Catherine University, and the University of St. Thomas, as their work relates to activities in clauses (1) and (2).

(b) By February 15 of each year following the receipt of a grant, the Minnesota Council on Economic Education must report to the commissioner of education on the number and
...type of in-person and online teacher professional development opportunities provided by
the Minnesota Council on Economic Education or its affiliated state centers. The report
must include a description of the content, length, and location of the programs; the number
of preservice and licensed teachers receiving professional development through each of
these opportunities; and a summary of evaluations of professional opportunities for teachers.

(c) On August 15, 2021, the Department of Education must pay the full amount of the
grant for fiscal year 2022 to the Minnesota Council on Economic Education. On August
15, 2022, the Department of Education must pay the full amount of the grant for fiscal year
2023 to the Minnesota Council on Economic Education. The Minnesota Council on Economic
Education must submit its fiscal reporting in the form and manner specified by the
commissioner. The commissioner may request additional information as necessary.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 29. CONSUMER DEBT COLLECTION LANGUAGE BARRIER WORKING
GROUP.

Subdivision 1. Establishment. The commissioner of commerce shall convene a working
group to review language barriers and the effect on creditors, debt collectors, and limited
English proficient communities.

Subd. 2. Membership. The working group consists of the following members:

(1) the commissioner of commerce or a designee;

(2) one member appointed by the Attorney General's Office;

(3) two members of the public representing creditors or debt collectors, appointed by
the industry and subject to approval by the commissioner of commerce;

(4) two members of the public representing consumer rights, appointed by consumer
rights advocate organizations and subject to approval by the commissioner of commerce;

(5) one member appointed by the Council for Minnesotans of African Heritage;

(6) one member appointed by the Minnesota Council on Latino Affairs;

(7) one member appointed by the Council on Asian-Pacific Minnesotans; and

(8) two members appointed by the Indian Affairs Council.

Subd. 3. Report. (a) By January 1, 2022, the commissioner of commerce shall report
to the chairs and ranking minority members of the house of representatives and senate
committees with jurisdiction over commerce with the working group's recommendations
to address language barriers between creditors, debt collectors, and consumers.

(b) The working group shall examine:

(1) current practices for communicating with consumers in the consumer's preferred
language when attempting to collect a debt or enforce a lien;

(2) the availability of translation services or a written glossary of financial terms for
consumers whose primary language is not English; and

(3) state and federal laws involving these issues.

Sec. 30. COLLECTION AGENCY EMPLOYEES; WORK FROM HOME.

An employee of a collection agency licensed under Minnesota Statutes, chapter 332,
may work from a location other than the licensee's business location if the licensee and
employee comply with all the requirements of Minnesota Statutes, section 332.33, that
would apply if the employee were working at the business location.

EFFECTIVE DATE. This section expires May 31, 2022.

Sec. 31. REPEALER.

Minnesota Statutes 2020, sections 45.017; 45.306, subdivision 1; and 115C.13, are
repealed."

Amend the title accordingly