

Subject Commerce Omnibus

Authors Stephenson

Analyst Larie Ann Pampuch

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Overview

This is the omnibus commerce finance and policy bill. It appropriates funding in fiscal year 2023.

Article 1: Appropriations

Section Description – Article 1: Appropriations

- 1 **Appropriations.**
Inserts boilerplate language regarding interpretation of the appropriation format used in this article.
- 2 **Department of Commerce.**
 - Subd. 1. Total appropriations.** Appropriates general fund and other fund dollars to the Department of Commerce for specific purposes.
 - Subd. 2. Administrative services.** Appropriates general fund money for the senior fraud prevention program.
 - Subd. 3. Financial services.** Appropriates general fund money for additional securities staff and to establish and operate a student loan advocate.
 - Subd. 4. Insurance.** Appropriates general fund money for a study and report on the disparities in geographic rating areas for individual and small group health plans. Appropriates general fund money for insurance division staff in the area of property and casualty insurance products.
 - Subd. 5. Enforcement.** Appropriates general fund money for the automobile theft prevention program. Appropriates money from the auto theft prevention account in the special revenue fund to the commissioner of commerce to reimburse law enforcement agencies for certain activities related to auto theft.

Section Description – Article 1: Appropriations

- 3 **Board of Accountancy.**
Appropriates general fund money to the Board of Accountancy for the licensing and preliminary application requirements under article 2, section 52.
- 4 **Attorney general.**
Appropriates general fund money to the attorney general for the licensing and preliminary application requirements under article 2, section 52.
- 5 **Professional Educator Licensing and Standards Board.**
Appropriates general fund money to the Professional Educator Licensing and Standards Board for the licensing and preliminary application requirements under article 2, section 52.
- 6 **Department of Revenue.**
Appropriates general fund money to the Department of Revenue for the licensing and preliminary application requirements under article 2, section 52.
- 7 **Gambling Control Board.**
Appropriates money from the lawful gambling regulation account in the special revenue fund to the Gambling Control Board for the licensing and preliminary application requirements under article 2, section 52.
- 8 **Department of Education**
Appropriates general fund money to the Department of Education for the licensing and preliminary application requirements under article 2, section 52.
- 9 **Transfer.**
Transfers money from the general fund to the insurance fraud prevention account for five additional peace officers in the Commerce Fraud Bureau.

Article 2: Commerce Policy

Section Description – Article 2: Commerce Policy

- 1 **Authorization.**
(a) States that the primary jurisdiction of the Commerce Fraud Bureau are offenses with a nexus to insurance-related crimes or investment fraud.

(b) Allows the Commerce Fraud Bureau to respond to a law enforcement agency's request to exercise law enforcement duties with the agency that has primary jurisdiction.

Section Description – Article 2: Commerce Policy

- 2 **Duties.**
Requires the Commerce Fraud Bureau to take actions within its primary jurisdiction.
- 3 **Live course.**
Defines “live course” for purposes of commerce-regulated professions continuing education.
- 4 **On-demand course.**
Defines “on-demand course.”
- 5 **Proctor.**
Lists the requirements a proctor must meet.
- 6 **Professional designation.**
Defines “professional designation.”
- 7 **[45.301] On-demand continuing education; requirements.**
 Subd. 1. On-demand course requirements. Lists the technological and structural requirements for an on-demand course.

 Subd. 2. Final examination. Requires that the final examination be encrypted online or a monitored paper examination.
- 8 **Approval.**
Makes changes to the requirements a person must meet to be approved by the commissioner as a course coordinator.
- 9 **Responsibilities.**
Makes technical correction.
- 10 **Assessment authority.**
Changes the assessment authority to include all financial institutions, excluding student loan services and collection agencies.
- 11 **General assessment basis.**
Allows the commissioner to make assessments on financial institutions based on business volume, as well as total assets.
- 12 **Financial institutions account; appropriation.**
Deposits funds received from assessments on all financial institutions into the financial institutions account.

Section Description – Article 2: Commerce Policy

- 13 **Articles of incorporation filed with commissioner.**
Requires financial corporations to file their proposed articles of incorporation with the commissioner of commerce.
- 14 **Filing.**
Requires financial corporation to file their certificate of corporation with the commissioner of commerce.
- 15 **Certificate of authority.**
Makes conforming changes regarding filings made by financial corporations with the commissioner of commerce.
- 16 **Effect.**
Makes conforming changes regarding filings made by financial corporations with the commissioner of commerce.
- 17 **Recording.**
Makes conforming changes regarding filings made by financial corporations with the commissioner of commerce.
- 18 **Recording.**
Makes conforming changes regarding filings made by financial corporations with the commissioner of commerce.
- 19 **Authorization.**
Requires assessments against a trust company or state bank and trust to be deposited in the financial institutions account instead of the general fund.
- 20 **Application, fee, notice.**
Requires assessments against an industrial loan and thrift to be deposited in the financial institutions account instead of the general fund.
- 21 **Place of business.**
Requires all money collected by the commissioner under chapter 53 (Industrial Loan and Thrift Companies) to be deposited in the financial institutions account.
- 22 **Sales finance company; license, fees, refund.**
Requires assessments against a sales finance company to be deposited in the financial institutions account instead of the general fund.

Section Description – Article 2: Commerce Policy

- 23 **Permitting access, removal, or delivery.**
Makes technical update.
- 24 **Application Fee.**
Requires all money collected by the commissioner under chapter 56 (Regulated Loans) to be deposited in the financial institutions account.
- 25 **Costs.**
Requires the commissioner to make the due date for a bill to an insurer for an examination at least 60 days from receipt of the bill.
- 26 **Completion of examination.**
Requires the commissioner to advise an insurer in writing of specific instances demonstrating a lack of cooperation when determining there has been a material lack of cooperation by an insurer during an examination
- 27 **Informal disposition.**
Requires the commissioner to attempt to informally resolve alleged violations of law during an examination of investigation of an insurer. This can be done via a consent order, nonpublic letter of reprimand, or other information resolution or disposition.
- 28 **Report to the legislation.**
Requires the commissioner to report to the committees of the legislature having jurisdiction over commerce issues regarding the number of pending market examinations, closed exams, exams being conducted by a third-party, or other information the legislature may request.
- 29 **Establishment.**
Requires an insurer to submit an antifraud plan to the commissioner within 30 days of materially modifying it.
- 30 **Program described; commissioner’s duties; appropriation.**
Allows the commissioner to spend 7.5% (originally 10%) of the money in the automobile fraud prevention account to administer and operate the program.
- 31 **Annual report.**
Changes the date of the automobile theft prevention program report to the legislature from January 15 to September 30 of each year.
- 32 **80A.61 Section 406; registration by broker-dealer, agent, funding portal, investment adviser, and investment adviser representative.**
Makes technical change.

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- 33 **Commissioner’s powers.**
Makes technical change.
- 34 **Filing; fee.**
Makes technical changes regarding registration of franchise.

Effective date; applicability. This section is effective January 1, 2023, and applies to initial registrations filed on or after that date.
- 35 **Dealer.**
Changes the definition of “dealer” in bullion products to those who conduct Minnesota transactions.
- 36 **Minnesota transaction.**
Defines “Minnesota transaction” for purposes of a bullion product transaction.
- 37 **Registration required.**
Makes conforming changes regarding dealer in bullion products.
- 38 **Notice of change in registration information.**
Makes conforming changes regarding Minnesota transactions and bullion products.
- 39 **Dealer responsibility for actions of dealer representatives.**
Makes conforming changes regarding Minnesota transactions and bullion products.
- 40 **Dealer registration precluded.**
Makes technical change.
- 41 **Screening process required.**
Makes conforming changes regarding Minnesota transactions and bullion products.
- 42 **Surety bond requirement.**
Makes conforming changes regarding Minnesota transactions and bullion products. Changes the amount of transactions within the preceding 12 months that requires registration of a dealer.
- 43 **Action on bond permitted.**
Makes conforming changes regarding Minnesota transactions and bullion products.
- 44 **Sales practice.**
Makes conforming changes regarding Minnesota transactions and bullion products.

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45 Notification to commissioner.

Makes conforming changes regarding Minnesota transactions and bullion products.

46 Minimum damage acquisition report.

Clarifies that when a real estate appraiser provides a minimum damage acquisition report they are not engaged in real estate appraisal activity.

Effective date. This section is effective September 1, 2022.

47 Out-of-state continuing education credit.

Defines terms and lists requirements in order for real estate appraiser continuing education credits taken out-of-state to be counted as credits in this state.

Effective date. This section is effective September 1, 2022.

48 Education.

Clarifies that an appraiser licensed after September 1, 2021, must complete the course required by this section prior to their first license renewal.

Effective date. This section is effective September 1, 2022.

49 Evidence.

Removes the ability of the commissioner to establish a fee schedule for use by an appraisal management company.

Effective date. This section is effective September 1, 2022.

50 Licensing disqualifications; preliminary applications; reports.

Subd. 1. Definition. Establishes a definition of the terms “conviction,” “criminal record,” and “state licenser” or “licenser” for purposes of this bill.

Subd. 2. Scope. Establishes that this section does not apply to applications for licensure, registration, or certification that do not require an applicant to report on the applicant’s criminal record or require a background check of the person’s criminal history. Further provides that the preliminary application process may only be used by a person with a criminal record. Establishes that this section does not apply to applications, licensure, registration, or certificates that are issued by the Department of Health, Department of Human Services, or any health-related board.

Subd. 3. Preliminary applications. Requires state licensers to permit individuals to submit a preliminary application related to a license, registration, or certificate, for the purpose of determining whether a criminal record or conviction would disqualify the person from receiving that credential. Specific details about the process for submitting the preliminary

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application are provided, including requirements related to documentation of the record, authorization for the licensor to charge a fee for expenses, and a deadline for the licensor to make a decision on the preliminary application.

Subd. 4. Reports. Requires each state licensor to submit an annual report to the Department of Employment and Economic Development (DEED) that contains statistics on implementation of this section and related outcomes. The annual report is due January 15 of each year. The commissioner of DEED is required to compile the reports and submit them to the legislature no later than February 15 of each year.

51 **Gasoline.**

Makes technical change.

52 **Gasoline blended with ethanol; general.**

Makes technical change.

53 **Federal Clean Air Act waivers; conditions.**

Makes technical change.

54 **Gasoline.**

Makes technical change.

55 **Term.**

Allows an individual debt collector to work from home without requiring an additional branch license.

Effective date. This section is effective July 1, 2022.

56 **Work from home.**

Allows the employee of a licensed debt collection agency to work from home if all other requirements of this section are met.

Effective date. This section is effective July 1, 2022.

57 **[336.9-510] Effectiveness of filed record.**

Makes conforming changes.

58 **[336.9-5135] Termination of wrongfully filed financing statement; reinstatement.**

(a) Defines “intent to harass.”

(b) Allows the person named as a debtor in a filed financing statement to provide the filing office with a notarized affidavit including certain information and stating that the filing was communicated with the intent to harass or defraud the person. Allows the office to reject an

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affidavit that is incomplete or if the office believes the affidavit was delivered with the intent to harass or defraud the secured party. Requires the secretary of state to provide a form affidavit.

(c) Requires the office to promptly file a termination statement for the financing statement identified in the affidavit. A termination must state that it was filed under this section and is not effective until 20 days from filing.

(d) The filing office cannot charge a fee to file an affidavit or termination under this section. The office must not return the initial financing statement filing fee.

(e) The office must send a notice to the secured party for the financing statement that is being terminated within two business days of the filing of the termination. The notice must contain certain information.

(f) If a secured party believes that the initial financing statement or amendment was authorized and not filed with the intent to harass or defraud, the secured party may request the filing office complete an expedited review of the termination or commence an action against the filing office for reinstatement.

(g) Requires the office to file a notice that the action has been commenced under paragraph (f) within ten days of service of process.

(h) If an action for reinstatement is successful the office must promptly file a record stating so.

(i) Upon filing a reinstatement, the effectiveness of the financing statement is considered never to have been terminated. A continuation statement after the effective date of a termination becomes effective if the financing statement is reinstated.

(j) If the court determines that the financing statement was appropriated terminated under this section, but the secured party brought suit pursuant to paragraph (f), then secured party may be liable to the person named as the debtor for the action costs and expenses including reasonable attorneys' fees.

59 [336.9-516] What constitutes filing; effectiveness of filing.

(b)(8) Provides filing does not occur if an initial financing statement, or amendment to a financing statement names a new debtor, and the office reasonably believes the record was communicated with the intent to harass or defraud the debtor or for an another unlawful purpose.

The office has no duty to form a belief as to whether a filing was communicated with the intent to harass or defraud the person identified as the debtor and has no duty to investigate or ascertain facts relevant to whether the intent or purpose was present. The secretary of state is not required to return an image of a filing rejected under this clause.

Section Description – Article 2: Commerce Policy

(e) A record that the filing office initially refuses to accept under paragraph (b), clause (8), but later accepts after receiving additional information, is effective as if the office had not initially refused to accept the record, except against a purchaser of the collateral that gives value in reasonable reliance upon the absence of the record from the files.

60 Powers of unit owners' associations.

Requires the association to provide notice to unit owners 15 days before levying a fine for failing to pay a prior assessment, levying a limited assessment (an assessment that is specific to the unit owner), or initiating a foreclosure. The notice must provide information about the fines or assessments, inform the owner of possible attorney's fees that could be charged, provide information about their rights under the bylaws, and provide information about foreclosure assistance. This bill would prohibit the accumulations of attorney's fees to be charged to the unit owner before the 15-day notice period.

61 Applicable law.

Clarifying which laws apply in structured settlement transfers.

62 Assignee.

Adding a definition for assignee to the laws on structured settlement transfers.

63 Effective equivalent annual interest rate.

Adding a definition to explain how to calculate the interest rate for the structured settlement so it can be explained as an annual rate.

64 Independent professional advice.

Adds financial adviser to the list of independent professional advisors and clarifies that the advisor must be a disinterested person.

65 Structured settlement payment rights.

Clarifies the definition of structured settlement payment rights.

66 Transferee.

Clarifies the definition of transferee.

67 Conditions to transfers of structured settlement payment rights and structured settlement agreements.

Adds a requirement that a notice and hearing date be sent out and the notice be provided to an attorney and financial advisor advising the payee; the notice explain that the fees should be shown to not be more than two percent of the total compensation to the payee; that it must show the annual interest rate; and must tell the payee about options to see financial advice. This section also provides guidelines for the court to determine if the transfer is fair and

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reasonable and in the payee’s best interest, and also provides that the transfer agreement cannot require predispute arbitration.

This section adds a new subdivision that allows the court to appoint an attorney to do an independent assessment of the transfer and advise the court on whether or not the transfer is fair and reasonable and in the best interest of the payee, with the costs of the evaluation to be paid by the transferee. This section also assigns liabilities for proper transfer of the structured settlement.

68 Discount rate.

Requires the discount rate under the transfer agreement to be under the annual percentage rate of prime plus five percentage points and provides for how to calculate that amount.

69 Application; procedure for approval of transfer.

Clarifies the venue and requires the payee to appear in person and provides requirements for what the notice of the hearing must include.

70 [549.325] Prohibited practices.

Prohibits transferee from representing the payee, intervene in a structured settlement transfer proceeding if not a party to the proceeding, offer incentives or gifts to transfer, communicate excessively to payees, solicit payees with false check advertisements, or solicit payees who are minors or their guardians. This section provides that violations of these prohibitions are considered violations of the fair trade practices act and can be enforced by the attorney general.

71 Construction.

Adds a provision on how a transfer can affect life contingent payments.

72 Revisor instruction.

Instructs the revisor of statutes to change the term “self-study course” to “on-demand course” and “classroom course” to “live course” wherever they appear in chapter 45.

73 Repealer.

Minnesota Statutes, section 45.25, subdivisions 2a and 14 are repealed.

Article 3: Insurance

Section Description – Article 3: Insurance

- 1 **Regulatory flexibility.**
Allows the commissioner of commerce to authorize long-term care insurance to be sold as part of a life insurance policy if the policy meets certain requirements.

- 2 **Evaluation process and content.**
Prohibits the commissioner from making public trade secret information provided by a health plan company or proponent or opponent of a mandated health benefit proposal. Creates a system for disagreements about whether information is trade secret.

- 3 **Applicability.**
Makes technical change.

- 4 **Contract disclosures.**
Removes language regarding a health plan company's duty to disclose information regarding an individual contracted provider's expected reimbursement.

- 5 **Fee schedules.**
Makes conforming changes.

- 6 **[62Q.7391] Health care provider contract termination.**
 - Subd. 1. Termination for cause.** (a) Allows a health plan company to terminate a contract with a provider for cause only if the contract includes an appeal process for the provider. The health plan company must give the provider written notice of termination that includes certain information.

(b) The appeal process must allow the provider to present relevant documents and arguments against termination and include an internal and external review if the termination is upheld. The external review must meet certain requirements and is final.

(c) Requires health plan companies to submit their appeal process to the Department of Commerce or the Department of Health, depending on their regulator. Failure to submit the process for review may result in the commissioner taking regulatory action.
 - Subd. 2. Termination not for cause.** Prohibits a health plan company from terminating a contract with a health care provider without cause.

Section Description – Article 3: Insurance

- 7 **Third party.**
Defines “third-party” for purposes of dental organizations.

Effective date. This section is effective January 1, 2023.
- 8 **Network leasing.**
(a) Allows a dental organization to give a third-party access to a dental provider contract, services, or discounts if certain requirements are met.

(b) Allows a dental organization to grant a third-party access to the dental provider contract, services, or discounts if certain information is disclosed and certain provisions are included in the dental provider contract.
- 9 **Method of payment.**
Requires a dental provider contract to include a method of payment for services where no fee was incurred by the provider. Requires that fees related to receiving payment for services be disclosed to the provider by the dental organization before the provider contract is executed.
- 10 **Discrimination based on status as a living organ or bone marrow donor prohibited.**
Prohibits life insurance, long-term care insurance, or disability insurance carriers from declining or limiting coverage or otherwise discriminating against a person based solely on their status as a living organ or bone marrow donor.

Effective date. This section is effective August 1, 2022.
- 11 **Cash compensation.**
Defines “cash compensation” for purposes of recommending or selling an annuity.
- 12 **Consumer profile information.**
Defines “consumer profile information.”
- 13 **Insurance producer.**
Defines “insurance producer” for purposes of sections 72A.203 to 72A.2036.
- 14 **Intermediary.**
Defines “intermediary.”
- 15 **Material conflict of interest.**
Defines “material conflict of interest.”

Section Description – Article 3: Insurance

- 16 **Noncash compensation.**
Defines “noncash compensation.”
- 17 **Nonguaranteed elements.**
Defines “nonguaranteed elements.”
- 18 **Recommendation.**
Defines “recommendation.”
- 19 **Replacement.**
Defines “replacement.”
- 20 **Best interest obligations.**
Requires an insurance producer to act in the best interest of the consumer when recommending an annuity. Requires an insurance producer to meet the obligations regarding care, disclosure, conflict of interest, and documentation.
- 21 **Care obligation.**
Requires an insurance producer to exercise reasonable diligence, care, and skill when making a recommendation. Provides information on how to meet these requirements.
- 22 **Disclosure obligation.**
Requires an insurance producer to disclose certain information to a consumer before recommending and selling an annuity. The commissioner will provide a form for this information
- 23 **Conflict of interest obligation.**
Requires an insurance producer to identify and avoid or reasonably manage and disclose material conflicts of interest.
- 24 **Documentation obligation.**
Requires an insurance producer, at the time of recommending or selling an annuity, to provide certain documentation to the consumer.
- 25 **Application of best interest obligation.**
Clarifies that any requirement applicable to an insurance producer under this section applies to all insurance producers who exercise control or influence in making recommendations and those who receive direct compensation pursuant to the sale.

Section Description – Article 3: Insurance

- 26 **Transactions not based on recommendation.**
Clarifies that insurance producers do not have an obligation to a consumer when no recommendation for the purchase of an annuity is made or the consumer decides to enter into a transaction not based on the insurance producer’s recommendation.
- 27 **Insurer duties.**
Prohibits an insurer from recommending an annuity to a consumer unless there is a reasonable basis to believe the annuity meets the consumer’s needs. Lists requirements relating to the assessment of the consumer’s needs and the structure of the insurer’s compensation system in relation to annuities.
- 28 **Prohibited practices.**
Makes conforming changes.
- 29 **Comparable standards; compliance.**
Makes conforming changes. Defines “comparable standards” with respect to broker-dealers, investment advisors, and fiduciaries
- 30 **Insurance producer training.**
Makes conforming changes and adjusts dates.
- 31 **Penalties.**
Makes conforming changes. Clarifies that whether corrective action was taken can be considered when determining an applicable penalty.
- 32 **Duration.**
Requires insurers and insurance producers to make available to the commissioner disclosures made to a consumer, including summaries of oral disclosures.
- 33 **Relationship to other laws; enforcement.**
Makes conforming changes.
- 34 **Study and report on disparities between geographic rating areas in individual and small group market health insurance rates.**
Requires the commissioner of commerce to study disparities in Minnesota’s nine geographic rating areas for the individual and small group market health insurance rates and recommend ways to reduce or eliminate such disparities.

Lists requirements relating to the study, allows the commissioner to contract with an outside entity to complete the report, and requires the report to the legislature by January 1, 2023.

Section Description – Article 3: Insurance

35 Repealer.

(a) Minnesota Statutes, sections 62Q 56, subdivision 1a is repealed.

(b) Minnesota Statutes 2020, sections 72A.2031, subdivisions 3, 9, and 11; and 72A.2032, subdivisions 1, 2, 3, and 5, are repealed.

Article 4: Consumer Protection

Section Description – Article 4: Consumer Protection

1 [58B.011] Student loan advocate.

Creates a student loan advocate within the Department of Commerce. Lists duties of the student loan advocate, including resolving complaints, monitoring current law, and establishing a borrower education course.

Requires a report to the legislature by January 15 in every odd-numbered year.

2 Program described; commissioner’s duties; appropriation.

Requires the commissioner to establish a library of equipment to combat automobile-related theft offenses. Requires the equipment be available to all law enforcement agencies upon request.

3 Prohibition on possessing catalytic converters; exception.

Prohibits the possession of a used catalytic converter that is not attached to a motor vehicle under certain circumstances.

Effective date. This section is effective August 1, 2022.

4 Prohibition.

Prohibits a person who is not a registered scrap metal dealer to purchase a used catalytic converter under certain circumstances.

Effective date. This section is effective August 1, 2022.

5 [325F.6945] Unlawful social media activities.

Defines terms, including “social media algorithm” and “social media platform.” Prohibits a social media platform with more than 1,000,000 account holders from using a social media algorithm to target user-generated content at an account holder under the age of 18, except under certain circumstances.

Section Description – Article 4: Consumer Protection

- 6 [332.365] Credit counseling organizations; debtors.**
Requires the commissioner of commerce to develop and maintain a document, for distribution by debt collection agencies that includes information for nonprofit credit counseling services in Minnesota. Requires a disclosure to be written in English, Spanish, Somali, Hmong, Vietnamese, and Chinese.

Effective date. This section is effective July 1, 2022.

- 7 Weapons, telephone cloning paraphernalia, automated sales suppression devices, catalytic converters, and bullet-resistant vests.**

Defines catalytic converter possessed in violation of section 325E.21 as contraband that is forfeited to the appropriate agency upon certain convictions.

Effective date. This section is effective August 1, 2022.



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