

HOUSE RESEARCH

Bill Summary

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Section

Article 1

Appropriation

- 1 Summary of Appropriations.** Summarizes appropriations by fund and year.
- 2 Energy finance appropriation.** Technical explanation of terms.
- 3 Department of Commerce.** Specifies general purposes for which the appropriations may be used.
- 4 Public Utilities Commission.** Summarizes appropriations by year.
- 5 General powers.** Permits the commissioner of commerce to assess entities the department regulates for the costs of investigations ordered by the commissioner. Specifies how the costs of the investigation are to be determined. Requires the commissioner to deposit the money collected into the general fund. This section applies to the department's regulation of insurance companies, financial institutions, and various related occupations, but does not apply to the energy-related duties of the department.
- 6 Fees other than examination fees.** Increases the filing fees charged by the commerce department to insurance companies for filing property and casualty insurance policy forms, premium rates, and compliance certifications with the department for review. This includes auto and homeowner's policy forms. The reference to compliance certifications involves a procedure permitted since 2005 for auto and homeowner's insurance, in which an insurer or rate service organization files a certification with the department certifying that a specific new policy form or premium rate complies with all Minnesota laws, and the insurer may then use the policy form or premium rate immediately upon filing the certification. This

section of the bill does not affect the use of this “file-and-use” system; it just increases the filing fee for using it. These filing fees are deposited in the general fund.

- 7 [216B.62] Strikes language regarding assessments for the alternative engineering activity (which provides technical assistance to further conservation and renewable energy projects), which are assessed as specified under section 10, below.
- 8 [216B.62] Provides for the same administrative treatment for utility objections regarding assessments for the newly codified assessments.
- 9 [216B.62] Strikes language regarding assessments for the alternative engineering activity (which provides technical assistance to further conservation and renewable energy projects) for cooperatives and municipal utilities.
- 10 [216B.62] Authorizes the department of commerce to assess public and municipal utilities and cooperative electric associations for all activities under chapter 216C.
- 11 [237.295] Adds to type of costs that may be assessed to telephone companies based on their proportion of gross jurisdictional operating revenues.
- 12 [237.295] Provides for the same administrative treatment for utility objections regarding assessments for the newly codified assessments.

Article 2

Definitions; Goals; Legislative Review

1 Federal stimulus funding; goal of energy programs.

Subd. 1. Definitions.

(a) “Act” means the American Recovery and Reinvestment Act of 2009.

Subd. 2. Stimulus funding allocation and goals. Requires that stimulus funding be allocated to activities that best achieve job creation and retention; improved energy efficiency and increased renewable energy production; coordinate and leverage other funding sources; and distribute funds geographically across the state.

- 2 **Legislative review.** Requires the Office of Energy Security (OES) to submit to the legislature for its review the criteria OES will use to prioritize energy programs in order to allocate stimulus funding, and to consider the legislature’s comments before setting final criteria. OES is also required to report to the legislature on the actual amounts allocated to each program.

Article 3

Energy Efficiency

- 1 **Weatherization.** Requires the director of OES to allocate all stimulus funds for weatherization, and to include rental units, especially low-income units, in the programs.

- 2 **Local government and school district building renovations.** Requires OES to coordinate the use of stimulus funds with an existing state program that provides for lease-purchase funding arrangements for energy efficiency projects in public buildings, including lighting upgrades and energy recommissioning. OES is to coordinate with the Department of Education to prioritize school district projects.
- 3 **State government buildings.** Requires the Department of Administration to develop a plan to fund and implement projects using stimulus funds for energy efficiency projects in state buildings, including lighting upgrades and energy recommissioning.
- 4 **Residential energy efficiency programs.** Directs OES to coordinate with existing state financing programs to improve energy efficiency in the residential sector.
- 5 **Training and workforce development.** Requires the Department of Employment and Economic Development, in coordination with OES and the Office of Higher Education, to develop a plan and procedures to allocate stimulus funds to programs to train energy professionals, such as auditors, energy managers and building operators to implement the energy-efficiency programs specified in this article. Specifies that recruitment is to target the unemployed low-income, rural and other distressed communities.
- 6 **Accountability and transparency reporting.** Requires the director of OES to submit to the legislature four quarterly reports on the progress of the programs funded, beginning in September 2009. The reports must contain information for each project funded on: the number of projects funded and their location; the number of jobs retained and created; energy savings; training courses provided and the number of trainees; and compliance with prevailing wage and disadvantages enterprise requirements.

Article 4

Renewable Energy

- 1 **Renewable energy grant program.** Directs the commissioner of commerce to establish a grant program to award grants to projects that qualify as community-based energy development (C-BED) projects, do not receive state renewable incentive payments, and meet other conditions. Maximum grant awards are \$500,000, and no more than two projects in a single county may receive grants.
- 2 **Renewable electric generation facilities.** Directs the commissioner of commerce to establish a program to award rebates to projects that generate electricity from a renewable source for a residence or a small business (Generation capacity must be under 40 kilowatts.) Rebates are the lesser of \$2,500 or 35% of the cost of purchasing and installing the generation facility.
- 3 **Solar energy projects in public buildings and schools.** Directs the commissioner of commerce to establish a program to award grants to local units of government and school districts to install solar thermal or electric projects.

Article 5

Miscellaneous Projects

- 1 **Energy programs in commercial and industrial buildings.** Directs the commissioner of commerce to establish a program to award grants to commercial and industrial facilities that install energy-efficiency improvements or devices that use renewable resources to generate electricity or heat or cool a building.

Energy education, training, and data systems. Directs OES to establish programs to include energy issues in K-12 curricula; train technicians to install and maintain wind and solar systems; and upgrade data systems to track energy savings.
- 3 **Energy efficiency grants to local governments.** Requires the OES to establish a program to award grants to local units of government to enhance energy efficiency and reduce energy use, including developing energy-efficient building codes, installing efficient street lighting, and deploying renewable energy devices on public buildings.

Article 6

Appropriations

- 1 **Weatherization assistance program appropriation.** Appropriates \$131.9 million from federal stimulus funds to the commissioner of commerce for weatherization programs.
- 2 **Energy efficiency and conservation block program appropriation.** Appropriates \$10.6 million to the commissioner of commerce: \$6.5 million for efficiency grants to local governments (art. 4, sec. 3), and \$4.1 million for local government and school district buildings (art. 3, sec. 2).
- 3 **State energy program appropriation.** Appropriates \$54.1 million from federal stimulus funding for the State Energy Program to the commissioner of commerce: \$10.65 million for local government and school district buildings (art. 3, sec. 2); \$8 million for state government buildings (art. 3, sec. 3); \$12 million for residential energy financing (art. 3, sec. 4); \$12 million for renewable energy programs (art. 4); \$5 million for grants to commercial and industrial buildings (art. 4, sec. 1); \$5 million for energy education, training, and data systems (art. 4, sec. 2); and \$1.5 million for a grant to locate the International Renewable Energy Technology Institute at Minnesota State University at Mankato.

Article 7

Overview

Article 7 incorporates H.F. 2029. This article comes mostly from the department of commerce and deals with regulation of banks, mortgage lenders, insurance companies, and other financial institutions by the department. Many of the changes are technical.

Sections 15 to 17 and 25 of this article involve the Minnesota Life and Health Insurance Guaranty Association, which is governed by laws enacted in 1977 and substantially amended in 1993. The association's role is to compensate MN residents who have health or life insurance (including annuities) with an insurance company that has become insolvent and unable to pay claims. The association steps in and pays, or arranges for payment of, claims that the insurance company cannot pay, up to specified dollar limits on various types of policies. The association is administered by the insurance industry, and all insurers doing health or life insurance business in MN are required to be members. The association does not accumulate funds in advance to pay these claims, but instead assesses its own members (insurance companies) at the time an insolvency occurs, in proportion to each company's share of the relevant Minnesota market. All other states have somewhat similar laws.

- 1 **Definitions.** Updates the definition of “lender” in a law regulating reverse mortgage loans to include the non-bank mortgage originators (such as mortgage companies and mortgage brokers) that have become a big part of the mortgage lending industry and are now regulated for other types of mortgage loans under the new chapter 58 enacted several years ago to regulate that type of lender. This will clarify that these lenders must comply with state laws regulating reverse mortgage loans, such as a law requiring counseling.
- 2 **Definitions.** Substitutes “business entity” for “person” in the definition of consumer small loan lenders (commonly referred to as “payday lenders”).
- 3 **Filing.** Makes a change conforming to section 2. Also specifies that the small consumer loan law applies only to loans made to Minnesota residents, but does include loans made over the internet by lenders who do not have a physical presence in Minnesota.
- 4 **Penalties for violation.** Conforms to section 2 on the person/business entity language change.
- 5 **Real estate; restrictions on holding.** This change involves how long a state-chartered bank is allowed to hold onto real estate it acquired through a mortgage foreclosure or other debt collection process. Under current law, a bank may keep that real estate for no more than five years. This section would allow keeping it for an additional period not to exceed five more years, with the approval of the commissioner of commerce, if the bank has not been able to sell it or if disposing of it within the first five years would be detrimental to the bank. With this change, Minnesota law for its state banks on this issue would be the same as the federal law for national banks.
- 6 **Certificate of exemption.** Corrects a cross-reference.
- 7 **Application contents.** Clarifies that certain license application requirements are relevant

only for mortgage originator license applicants, and not for mortgage servicing license applicants. Adds language in paragraph (c) conforming to the following section, which adds continuing education and testing requirements for licensure as a mortgage originator.

- 8 Education and testing requirement.** Increases the initial education requirement and adds continuing education and testing to the requirements to obtain and maintain an individual license as a mortgage originator. Authorizes the testing requirements to be established by rule. This is effective for license applications and renewals made on or after September 1, 2009.
- 9 Generally.** Adds laws regulating reverse mortgage loans to the laws mortgage originators must follow. This is consistent with section 1.
- 10-11 New auditing requirements for insurance companies.** These two sections (section 11 is very long) involve adoption of new and very detailed auditing requirements as tools to regulate the financial solvency of insurance companies, as required by the National Association of Insurance Commissioners (NAIC). Some requirements are less demanding for smaller companies. States are required to adopt this law to become effective for calendar year 2010. Even the effective date for section 11 is a whole page long.
- 12 Insolvency.** Eliminates a reference to a law repealed in this article, relating to insolvency of township mutual fire insurance companies.
- 13 Additional requirements.** Technical cross-reference change to conform to the new law on insurance company audits in section 11.
- 14 Preneed insurance products.** This section deals with “preneed insurance products.” They are small life insurance policies used to pay funeral, burial, and related expenses. This section enacts a law recommended by the National Association of Insurance Commissioners for valuation of the reserves insurance companies should have to cover future payouts on those policies.
- 15 Limitation of benefits.** Increases all of the dollar limits of guaranty association coverage of life insurance and annuity products. An existing law (repealed in section 25 of this article) requires the commissioner to make adjustments for inflation each year by publishing them in the State Register. Those do not automatically get shown in statute, and can get there only if the legislature amends the statutes, so the limits shown in the current law are lower than the actual adjusted amounts. This section increases the stated limits and section 25 repeals future automatic inflation increases.
- 16 Prohibited sales practice.** Provides that insurance companies and insurance agents may fully inform customers of the existence of the guaranty association when selling an insurance product covered by the guaranty association. Eliminates doing so as a misdemeanor offense.
- 17 Form.** This section amends the notice that insurance companies are required to give to policyholders when they have bought a life or health policy, giving them information about the guaranty association. The changes update the notice to match the new dollar limits in section 15, so it is purely technical.
- 18 Number of members required, property and territory.** Sections 18 to 24 substantially rewrite the statutes governing township mutual fire insurance companies, usually referred to

just as “township mutuals.” These are small mutual companies that now provide fire insurance in rural areas consisting of authorized adjoining townships. They are owned by their policyholders, sort of like cooperatives, rather than by stockholders. They are regulated by the commissioner of commerce. This section changes the requirement of township mutual authorized territories to require that the territories consist of adjoining counties, rather than adjoining townships. Under this new law, a township mutual can operate in up to 9 adjoining counties, or in up to 20 adjoining counties if it meets the higher financial reserves requirements shown in subdivision 2. Permits township mutuals to write insurance in cities of less than 25,000, but if a city in which it is writing insurance grows to exceed 25,000, it may continue to write both new and renewal insurance there. Also permits writing new and renewal insurance in cities of up to 150,000, with the approval of the commissioner of commerce. Also allows a township mutual that had insurance in force as of the end of 2007 in a city of between 25,000 and 150,000 within its authorized territory, to continue to write insurance there by simply filing amended articles of incorporation naming that city, without the need to get approval of the commissioner.

- 19 Powers of corporation.** Permits the articles of incorporation of a township mutual to eliminate or limit the liability of a member of the board of directors to the company or its members for breach of fiduciary duty, subject to exceptions stated in the section.
- 20 Principal office.** Conforms to section 18 by requiring a township mutual to have its principal office in a county, rather than a township, in which it does business.
- 21 Kinds of property; property outside authorized territory.** Permits a township mutual to write insurance to cover any other real estate or personal property owned by a person whose property it insures within its authorized territory, even if that other property is outside its authorized territory, subject to some limits.
- 22 Amounts of insurable risk.** Makes a technical correction in a term.
- 23 Surplus requirement.** Changes surplus requirements for township mutuals. Requires a minimum surplus of \$300,000 at all times. (Surplus is an amount in excess of its required reserves estimated as necessary to meet its expected liabilities for insurance claims.) Specifies a procedure to follow to correct a surplus deficiency, involving a plan of correction agreed to by the township mutual and the commissioner.
- 24 By member.** Eliminates a current requirement that a member who terminates membership in a township mutual (terminates insurance coverage) must pay the member’s share of all existing claims.
- 25 Repealer.**
- Subd. 1. Annual audits.** Repeals the statute replaced by section 11.
- Subd. 2. Township mutual insured properties, joint or partial risks, and assessments.** Repeals township mutual statutes replaced by sections 18 to 24.
- Subd. 3. Banking procedures; real estate tax records.** Repeals an obsolete department of commerce banking rule.
- Subd. 4. Debt prorating companies.** Repeals obsolete department of commerce rules relating to “debt prorate companies,” now called debt management companies.

Subd. 5. Guaranty association; inflation indexing. Repeals a law related to sections 15 to 17 of this article, relating to the Minnesota Life and Health Insurance Guaranty Association. That law provides inflation indexing for the dollar limits of guaranty association coverage of life, annuities, and health insurance policies owned by policyholders of insurance companies that become insolvent.

Article 8

Overview

Article 8 incorporates H.F. 549. This article updates and clarifies legislation enacted in 2007 to regulate debt management services providers and also includes new legislation to regulate debt settlement services providers. Debt management services providers manage a debtor's payments on debts by distributing regular (often partial) payments to creditors from funds provided by the debtor, where the primary purpose is to repay the debts in full over a longer period of time. Debt settlement services providers primarily try to negotiate with creditors to get the debts reduced, so that debts may be paid in full satisfaction of the (reduced) debts.

- 1 **Scope.** Technical change to add debt settlement services providers to a list of entities to which the commerce department's enforcement authority applies.
- 2 **General.** Same as section 1, but specific to financial institutions.
- 3 **Supervision over financial institutions.** Technical change consistent with section 2.
- 4 **Assessment authority.** Requires debt settlement services providers to pay the cost to the commerce department of regulating them, on the same basis as other types of businesses.
- 5 **Telephone solicitation.** Makes nonprofit debt settlement providers subject to the state's "do not call list," regardless of the exemption for other types of nonprofit organizations.
- 6 **Advertise.** Defines the term as soliciting business through any means or medium,
- 7 **Controlling or affiliated party.** Amends the existing definition to more completely cover relationships between individuals and entities, in which one of them controls the other or in which both are under the common control of another individual or entity.
- 8 **Debt management services provider.** Expands this existing definition to include a person to whom duties under a debt management services agreement or debt management services plan are delegated. Changes an exemption from regulation for debt management services provided by financial institutions, credit unions, and collection agencies, to eliminate making it conditional on not charging a fee. Exempts collection agencies if they perform the services for a creditor. Also makes a technical change in clause (11) and separates credit unions from that clause.
- 9 **Debt management services.** Revises the existing definition of this term to better describe the services as a comprehensive package of related activities.
- 10 **Debtor.** Replaces archaic language ("debt prorating") with the more modern term

redefined in section 9.

- 11 Debt settlement services provider.** Amends this definition to conform to the new definition provided in section 17.
- 12 Right of action on bond.** Rewords existing law on when a debt settlement services provider is in default of its agreement with its customer, which permits the customer to sue on the bond or other security provided by the debt settlement services provider.
- 13 Denial of registration.** Adds a pattern of failing to provide the services promised as an additional reason permitting the commissioner of commerce to deny registration to an applicant for registration as a debt management services provider.
- 14 Written debt management services agreement.**
- Subd. 1. Written agreement required.** Requires that a debt management services agreement show whether the provider is registered with the commerce department, show the registration number, and be written in the customer's native language if the debt management services provider advertised in that language.
- Subd. 2. Actions prior to written agreement.** Makes requirements that apply to providing debt management services also apply to signing a contract to provide them. Also requires a person who seeks to provide debt management services to disclose to the customer, prior to entering into the contract, whether the provider is registered with the commerce department and, if so, the provider's registration number.
- Subd. 3. Required provisions.** Clarifies language on origination fees.
- Subd. 4. Prohibited terms.** Prohibits a choice of law clause. (A choice of law clause is a provision in a contract specifying which state's laws apply to the contract.)
- Subd. 5. New debt management services agreements; modification of existing agreements.** Purely technical clarifications.
- 15 Notice of debtor's right to cancel.** Makes a technical clarification.
- 16 Prohibitions.** Prohibits a debt management services provider from advising or otherwise attempting to influence a debtor to stop paying a creditor.
- 17 Definitions.** This section begins the part of the bill that creates new chapter of law to regulate debt settlement services providers. This section defines terms used in this new chapter of law.
- 18 Requirement of registration.** Requires debt settlement services providers to register with the commissioner of commerce.
- 19 Registration.** Specifies the process for registering as a debt settlement services provider, including the registration form, fees and bond requirements, provision of a list of registrants on the Commerce Department website, and registration renewal requirements.
- 20 Denial, suspension, revocation, or nonrenewal of registration.** Permits denial, suspension, revocation, or nonrenewal of a debt settlement services provider registration on

the same basis now used for debt management services providers under chapter 332A.

- 21 **Written debt settlement services agreement; disclosures; trust account.** Specifies what must to be (and must not be) in a debt settlement services contract and what has to happen prior to entering into the contract. Requires that the debtor's funds advanced to the provider be held in a separate trust account until earned by the provider or disbursed to a creditor or to the debtor.
- 22 **Right to cancel.** Specifies the rights of both sides to terminate the contract.
- 23 **Books, records, and information.** Requires a debt settlement services provider to keep records of its activities and provide them to the commissioner or the debtor as required in this section.
- 24 **Fees, payments, and consent of creditors.** Limits the amount and types of fees charged to the debtor. Requires the debt settlement services provider to try to get consent from creditors for the plan proposed by the provider for the debtor to (usually partially) pay off the debts over time.
- 25 **Prohibitions.** Lists 13 things a debt settlement services provider must not do.
- 26 **Advertisement of debt settlement services plan.** Prohibits debt settlement services providers from claiming that debts secured by collateral may be settled for less than the amount owing.
- 27 **Debt settlement services agreement rescission.** Permits a debtor to rescind a debt settlement services contract if the provider has materially violated this chapter of laws.
- 28 **Enforcement; remedies.** Specifies how this chapter of law may be enforced, including a private cause of action and enforcement by the attorney general.
- 29 **Investigations.** Permits the commissioner of commerce to investigate the activities of a debt settlement services provider, including by requiring a financial audit.