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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 1401

February 26, 2007

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The bill was read for the first time and referred to the Committee on Health and Human Services

March 15, 2007

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Commerce and Labor

March 27, 2007

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

By motion, re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to human services; establishing a reverse mortgage incentive program;
1.3 establishing eligibility standards, benefits, and other requirements; appropriating
1.4 money; amending Minnesota Statutes 2006, sections 47.58, subdivision
1.5 8; 256.01, by adding a subdivision; 256.975, subdivision 7; 256B.0911,
1.6 subdivisions 1a, 3a; 256B.0913, by adding a subdivision; 256B.15, by adding a
1.7 subdivision; 462A.05, by adding a subdivision.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2006, section 47.58, subdivision 8, is amended to read:

1.10 Subd. 8. Counseling; requirement; penalty. A lender, mortgage banking company,
1.11 or other mortgage lender not related to the mortgagor must keep a certificate on file
1.12 documenting that the borrower, prior to entering into the reverse mortgage loan, received
1.13 counseling as defined in this subdivision from an organization that meets the requirements
1.14 of section 462A.209 and is a housing counseling agency approved by the Department of
1.15 Housing and Urban Development. The certificate must be signed by the mortgagor and
1.16 the counselor and include the date of the counseling, the name, address, and telephone
1.17 number of both the mortgagor and the organization providing counseling. A failure by
1.18 the lender to comply with this subdivision results in a \$1,000 civil penalty payable to
1.19 the mortgagor. For the purposes of this subdivision, "counseling" means the following
1.20 services are provided to the borrower:

- 1.21 (1) a review of the advantages and disadvantages of reverse mortgage programs;
1.22 (2) an explanation of how the reverse mortgage affects the borrower's estate and
1.23 public benefits;
1.24 (3) an explanation of the lending process;
1.25 (4) a discussion of the borrower's supplemental income needs; and

2.1 (5) an explanation of the provisions of sections 256B.0913, subdivision 17, and
 2.2 462A.05, subdivision 42; and

2.3 (6) an opportunity to ask questions of the counselor.

2.4 Sec. 2. Minnesota Statutes 2006, section 256.01, is amended by adding a subdivision
 2.5 to read:

2.6 Subd. 23. **Reverse mortgage information and referral.** The commissioner, in
 2.7 cooperation with the commissioner of the Minnesota Housing Finance Agency, shall:

2.8 (1) establish an information and referral system to inform eligible persons regarding
 2.9 the availability of reverse mortgages and state incentives available to persons who take
 2.10 out certain reverse mortgages. The information and referral system shall be established
 2.11 involving the Senior LinkAge Line, county and tribal agencies, community housing
 2.12 agencies and organizations, reverse mortgage counselors and lenders, senior and elder
 2.13 community organizations, and other relevant entities; and

2.14 (2) coordinate necessary training for Senior LinkAge Line employees, mortgage
 2.15 counselors, and lenders regarding the provisions of sections 256B.0913, subdivision
 2.16 17, and 462A.05, subdivision 42.

2.17 Sec. 3. Minnesota Statutes 2006, section 256.975, subdivision 7, is amended to read:

2.18 Subd. 7. **Consumer information and assistance; senior linkage.** (a) The
 2.19 Minnesota Board on Aging shall operate a statewide information and assistance service
 2.20 to aid older Minnesotans and their families in making informed choices about long-term
 2.21 care options and health care benefits. Language services to persons with limited English
 2.22 language skills may be made available. The service, known as Senior LinkAge Line, must
 2.23 be available during business hours through a statewide toll-free number and must also
 2.24 be available through the Internet.

2.25 (b) The service must assist older adults, caregivers, and providers in accessing
 2.26 information about choices in long-term care services that are purchased through private
 2.27 providers or available through public options. The service must:

2.28 (1) develop a comprehensive database that includes detailed listings in both
 2.29 consumer- and provider-oriented formats;

2.30 (2) make the database accessible on the Internet and through other telecommunication
 2.31 and media-related tools;

2.32 (3) link callers to interactive long-term care screening tools and make these tools
 2.33 available through the Internet by integrating the tools with the database;

3.1 (4) develop community education materials with a focus on planning for long-term
3.2 care and evaluating independent living, housing, and service options;

3.3 (5) conduct an outreach campaign to assist older adults and their caregivers in
3.4 finding information on the Internet and through other means of communication;

3.5 (6) implement a messaging system for overflow callers and respond to these callers
3.6 by the next business day;

3.7 (7) link callers with county human services and other providers to receive more
3.8 in-depth assistance and consultation related to long-term care options; ~~and~~

3.9 (8) provide information and assistance to inform older adults about reverse
3.10 mortgages, including the provisions of sections 47.58; 256B.0913, subdivision 17; and
3.11 462A.05, subdivision 42; and

3.12 (9) link callers with quality profiles for nursing facilities and other providers
3.13 developed by the commissioner of health.

3.14 (c) The Minnesota Board on Aging shall conduct an evaluation of the effectiveness
3.15 of the statewide information and assistance, and submit this evaluation to the legislature
3.16 by December 1, 2002. The evaluation must include an analysis of funding adequacy, gaps
3.17 in service delivery, continuity in information between the service and identified linkages,
3.18 and potential use of private funding to enhance the service.

3.19 Sec. 4. Minnesota Statutes 2006, section 256B.0911, subdivision 1a, is amended to
3.20 read:

3.21 Subd. 1a. **Definitions.** For purposes of this section, the following definitions apply:

3.22 (a) "Long-term care consultation services" means:

3.23 (1) providing information and education to the general public regarding availability
3.24 of the services authorized under this section;

3.25 (2) an intake process that provides access to the services described in this section;

3.26 (3) assessment of the health, psychological, and social needs of referred individuals;

3.27 (4) assistance in identifying services needed to maintain an individual in the least
3.28 restrictive environment;

3.29 (5) providing recommendations on cost-effective community services that are
3.30 available to the individual;

3.31 (6) development of an individual's community support plan, which may include the
3.32 use of reverse mortgage payments to pay for services needed to maintain the individual in
3.33 the person's home;

3.34 (7) providing information regarding eligibility for Minnesota health care programs;

3.35 (8) preadmission screening to determine the need for a nursing facility level of care;

4.1 (9) preliminary determination of Minnesota health care programs eligibility for
4.2 individuals who need a nursing facility level of care, with appropriate referrals for final
4.3 determination;

4.4 (10) providing recommendations for nursing facility placement when there are no
4.5 cost-effective community services available; and

4.6 (11) assistance to transition people back to community settings after facility
4.7 admission.

4.8 (b) "Minnesota health care programs" means the medical assistance program under
4.9 chapter 256B and the alternative care program under section 256B.0913.

4.10 Sec. 5. Minnesota Statutes 2006, section 256B.0911, subdivision 3a, is amended to
4.11 read:

4.12 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment,
4.13 services planning, or other assistance intended to support community-based living must be
4.14 visited by a long-term care consultation team within ten working days after the date on
4.15 which an assessment was requested or recommended. Assessments must be conducted
4.16 according to paragraphs (b) to (g).

4.17 (b) The county may utilize a team of either the social worker or public health nurse,
4.18 or both, to conduct the assessment in a face-to-face interview. The consultation team
4.19 members must confer regarding the most appropriate care for each individual screened or
4.20 assessed.

4.21 (c) The long-term care consultation team must assess the health and social needs of
4.22 the person, using an assessment form provided by the commissioner.

4.23 (d) The team must conduct the assessment in a face-to-face interview with the
4.24 person being assessed and the person's legal representative, if applicable.

4.25 (e) The team must provide the person, or the person's legal representative, with
4.26 written recommendations for facility- or community-based services. The team must
4.27 document that the most cost-effective alternatives available were offered to the individual.
4.28 For purposes of this requirement, "cost-effective alternatives" means community services
4.29 and living arrangements that cost the same as or less than nursing facility care.

4.30 (f) If the person chooses to use community-based services, the team must provide
4.31 the person or the person's legal representative with a written community support plan,
4.32 regardless of whether the individual is eligible for Minnesota health care programs.
4.33 The person may request assistance in developing a community support plan without
4.34 participating in a complete assessment. If the person chooses to obtain a reverse mortgage

5.1 under section 47.58 as part of the community support plan, the plan must include a
5.2 spending plan for the reverse mortgage payments.

5.3 (g) The team must give the person receiving assessment or support planning, or
5.4 the person's legal representative, materials supplied by the commissioner containing
5.5 the following information:

5.6 (1) the purpose of preadmission screening and assessment;

5.7 (2) information about Minnesota health care programs and about reverse mortgages,
5.8 including the provisions of sections 47.58; 256B.0913, subdivision 17; and 462A.05,
5.9 subdivision 42;

5.10 (3) the person's freedom to accept or reject the recommendations of the team;

5.11 (4) the person's right to confidentiality under the Minnesota Government Data
5.12 Practices Act, chapter 13; and

5.13 (5) the person's right to appeal the decision regarding the need for nursing facility
5.14 level of care or the county's final decisions regarding public programs eligibility according
5.15 to section 256.045, subdivision 3.

5.16 Sec. 6. Minnesota Statutes 2006, section 256B.0913, is amended by adding a
5.17 subdivision to read:

5.18 **Subd. 17. Services for persons using reverse mortgages.** (a) Alternative care
5.19 services are available to a person if:

5.20 (1) the person qualifies for the reverse mortgage incentive program under section
5.21 462A.05, subdivision 42, and has received the final payment on a qualifying reverse
5.22 mortgage, or the person satisfies the criteria in section 462A.05, subdivision 42, paragraph
5.23 (b), clauses (1) to (5), and has otherwise obtained a reverse mortgage and payments from
5.24 the reverse mortgage for a period of at least 24 months or in an amount of at least \$15,000
5.25 are used for services and supports, including basic shelter needs, home maintenance, and
5.26 modifications or adaptations, necessary to allow the person to remain in the home as an
5.27 alternative to a nursing facility placement; and

5.28 (2) the person satisfies the eligibility criteria under this section, other than age,
5.29 income, and assets, and verifies that reverse mortgage expenditures were made according
5.30 to the spending plan established under section 256B.0911, if one has been established.

5.31 (b) In addition to the other services provided under this section, a person who
5.32 qualifies under this subdivision shall not be assessed a monthly participation fee under
5.33 subdivision 12 nor be subject to an estate claim under section 256B.15 for services
5.34 received under this section.

6.1 (c) The commissioner shall require a certification of loan satisfaction or other
6.2 documentation that the person qualifies under this subdivision.

6.3 Sec. 7. Minnesota Statutes 2006, section 256B.15, is amended by adding a subdivision
6.4 to read:

6.5 Subd. 9. **Recovery of alternative care and certain reverse mortgages.** The state
6.6 and a county agency shall not recover alternative care paid for a person under section
6.7 256B.0913, subdivision 17, under this section.

6.8 Sec. 8. Minnesota Statutes 2006, section 462A.05, is amended by adding a subdivision
6.9 to read:

6.10 Subd. 42. **Reverse mortgage incentive program.** (a) The agency shall, within the
6.11 limits of appropriations made available for this purpose, establish, in cooperation with
6.12 the commissioner of human services, a program to encourage eligible persons to obtain
6.13 reverse mortgages to pay for eligible costs of maintaining the person in the home as an
6.14 alternative to a nursing facility placement.

6.15 (b) The incentive program shall be made available to a person who has been
6.16 determined by the commissioner of human services or the commissioner's designated
6.17 agent to meet all of the following criteria:

6.18 (1) is age 62 or older;

6.19 (2) would be eligible for medical assistance within 365 days of admission to a
6.20 nursing home;

6.21 (3) is not a medical assistance recipient, is not eligible for medical assistance without
6.22 a spenddown or waiver obligation, is not ineligible for the medical assistance program due
6.23 to an asset transfer penalty, and does not have income greater than the maintenance needs
6.24 allowance under section 256B.0915, subdivision 1d, but equal to or less than 120 percent
6.25 of the federal poverty guidelines effective July 1 in the year for which program eligibility
6.26 is established, who would be eligible for the elderly waiver with a waiver obligation;

6.27 (4) needs services that are not funded through other state or federal funding for
6.28 which the person qualifies;

6.29 (5) obtains a reverse mortgage loan under section 47.58 on a home with an estimated
6.30 market value not to exceed \$150,000. This limit shall be adjusted annually on April 1
6.31 by the percentage change for the previous calendar year in the housing component of the
6.32 United States Consumer Price Index - all urban consumers; and

7.1 (6) agrees to make expenditures of reverse mortgage payments according to a
 7.2 spending plan established under section 256B.0911, subdivision 3a, in which payments,
 7.3 services, and supports meet the following standards:

7.4 (i) payments received under the loan for a period of at least 24 months or in an
 7.5 amount of at least \$15,000 are used for services and supports, including basic shelter
 7.6 needs, home maintenance, and modifications or adaptations, necessary to allow the person
 7.7 to remain in the home as an alternative to a nursing facility placement;

7.8 (ii) reimbursements for services, supplies, and equipment shall not exceed the
 7.9 market rate; and

7.10 (iii) if the person's spouse qualifies under section 256B.0913, subdivisions 1 to 14,
 7.11 the reverse mortgage payments may be used to pay client fees under that section.

7.12 (c) The incentives available under this program shall include:

7.13 (1) payment of the initial mortgage insurance premium for a reverse mortgage.

7.14 The maximum payment under this clause shall be limited to \$1,500. This limit shall be
 7.15 adjusted annually on April 1 by the percentage change for the previous calendar year in
 7.16 the housing component of the United States Consumer Price Index - all urban consumers;

7.17 (2) with federal approval, payments to reduce service fee set-asides, through an
 7.18 advance payment to the lender, an agreement to guarantee fee payments after 60 months
 7.19 if the set-aside is limited to 60 months, or through other mechanisms approved by the
 7.20 commissioner; and

7.21 (3) other incentives approved by the commissioner.

7.22 (d) After calculating the adjusted maximum payment limits under paragraphs (b)
 7.23 and (c), the commissioner shall annually notify the Office of the Revisor of Statutes in
 7.24 writing, on or before May 1, of the adjusted limits. The revisor shall annually publish in
 7.25 the Minnesota Statutes the adjusted maximum payment limits under paragraph (b).

7.26 **Sec. 9. APPROPRIATION.**

7.27 The following amounts are appropriated from the general fund to the commissioner
 7.28 of human services for the biennium beginning July 1, 2007:

7.29 (1) \$..... for the purposes of section 2; and

7.30 (2) \$..... to be transferred to the commissioner of the Minnesota Housing Finance
 7.31 Agency for the purposes of section 8.

7.32 Any money appropriated for these purposes that is not spent for the purposes indicated
 7.33 does not cancel but shall be transferred to the medical assistance account.