

1.1 **Senator Dahms from the Committee on Commerce and Consumer Protection**
1.2 **Finance and Policy, to which was referred**

1.3 **S.F. No. 3287:** A bill for an act relating to commerce; modifying department enforcement
1.4 powers; regulating market conduct examinations; requiring a report; amending Minnesota
1.5 Statutes 2020, sections 45.027, subdivisions 1a, 6, by adding a subdivision; 60A.031,
1.6 subdivision 3, by adding a subdivision; 60A.033, subdivision 9, by adding subdivisions;
1.7 70A.06, by adding a subdivision; 72A.19, subdivision 1; repealing Minnesota Statutes 2020,
1.8 section 60A.033, subdivision 3.

1.9 Reports the same back with the recommendation that the bill be amended as follows:

1.10 Delete everything after the enacting clause and insert:

1.11 "Section 1. Minnesota Statutes 2020, section 60A.031, subdivision 6, is amended to read:

1.12 Subd. 6. **Penalty.** (a) Notwithstanding section 72A.05, any person who violates or aids
1.13 and abets any violation of a written order issued pursuant to this section may be fined not
1.14 more than \$10,000 for each day the violation continues for each violation of the order and
1.15 the money so recovered shall be paid into the general fund.

1.16 (b) Unless the conduct involves a willful violation, the maximum total amount of civil
1.17 penalties imposed by the commissioner under this section for all violations of an identical
1.18 or substantially similar law, rule, or order related to conduct prohibited by chapters 60A to
1.19 79 during a calendar year must not exceed \$25,000.

1.20 (c) For any applicable penalty imposed by the commissioner under this section, the
1.21 commissioner must consider whether corrective action for the consumer was taken promptly
1.22 after a violation was discovered or the violation was not part of a pattern or practice and
1.23 shall reduce or eliminate the penalty accordingly.

1.24 Sec. 2. Minnesota Statutes 2020, section 60A.031, is amended by adding a subdivision to
1.25 read:

1.26 Subd. 10. Limitation of enforcement actions or administrative proceedings. An
1.27 enforcement action or administrative proceeding brought by the commissioner against a
1.28 licensee who violates any law, rule, or order related to the duties and responsibilities entrusted
1.29 to the commissioner in chapters 60A to 79, including without limitation the issuance of an
1.30 order pursuant to chapters 60A to 79, must be commenced within six years of the date the
1.31 violation occurs unless the violation arises out a contract that remains in force, in which
1.32 case, the action or administrative proceeding must be commenced within two years of the
1.33 date of the discovery of the violation.

- 2.1 Sec. 3. Minnesota Statutes 2020, section 60A.031, is amended by adding a subdivision to
- 2.2 read:
- 2.3 Subd. 11. Multistate examinations. If the commissioner elects to participate in an
- 2.4 examination of a licensee that involves multiple states, the commissioner is prohibited from
- 2.5 commencing, undertaking, or continuing an examination under this section against the
- 2.6 subject examinee related to the same alleged conduct, including without limitation incurring
- 2.7 or charging any examination costs, unless and until the multistate examination is complete
- 2.8 or Minnesota has formally withdrawn from that examination. With respect to any completed
- 2.9 multistate examination that Minnesota elected to participate in, the commissioner is prohibited
- 2.10 from taking action against a licensee that was subject to the multistate examination unless
- 2.11 the commissioner follows the procedures set forth in this section and sections 60A.031 and
- 2.12 60A.033, as applicable.
- 2.13 Sec. 4. Minnesota Statutes 2020, section 60A.033, subdivision 8, is amended to read:
- 2.14 **Subd. 8. Costs.** All bills for examination costs being charged to an insurance company
- 2.15 pursuant to subdivision 5 or section 60A.031, subdivision 3, paragraph (c), must:
- 2.16 (1) be itemized and, with respect to examiner billings, contain activity detail on a quarterly
- 2.17 hourly basis by an individual examiner and disclose the applicable hourly billing rates,
- 2.18 together with per-charge detail for related travel or other expenses; and
- 2.19 (2) provide a due date no less than 30 days from receipt of the bill; and
- 2.20 (3) advise the company that it may request an administrative hearing pursuant to
- 2.21 subdivision 10 to dispute whether any amount so billed complies with this subdivision,
- 2.22 relates to the applicable examination, or the activity billed is otherwise reasonable in relation
- 2.23 to the requirements of the examination. The commissioner may not refer any billing to the
- 2.24 Department of Revenue for collection pursuant to chapter 16D during the pendency of any
- 2.25 such hearing or appeal.
- 2.26 Sec. 5. Minnesota Statutes 2020, section 60A.033, subdivision 9, is amended to read:
- 2.27 **Subd. 9. Completion of examination.** An examination under section 60A.031 must not
- 2.28 exceed 18 months from the date the commissioner receives the insurance company's first
- 2.29 submission pursuant to a scheduling order, unless:
- 2.30 (1) the commissioner determines that there has been a material lack of cooperation by
- 2.31 the insurance company and advises the company in writing of the specific instances
- 2.32 demonstrating a lack of cooperation;

- 3.1 (2) the examination is a multistate examination; or
- 3.2 (3) the commissioner determines that additional time is necessary to complete the
- 3.3 examination and the commissioner notifies the insurance company in writing of the reasons
- 3.4 why the examination requires additional time.
- 3.5 Sec. 6. Minnesota Statutes 2020, section 60A.033, is amended by adding a subdivision to
- 3.6 read:
- 3.7 Subd. 11. Informal disposition. (a) The commissioner must make an attempt to
- 3.8 informally resolve any alleged violations of law identified during the examination or
- 3.9 investigation. An attempt to informally resolve a violation may consist of a consent order,
- 3.10 nonpublic letter of reprimand, or other informal resolution or disposition.
- 3.11 (b) The terms of a consent order or other informal disposition that prescribes compliance
- 3.12 requirements must be consistent with the requirements of Minnesota law.
- 3.13 Sec. 7. Minnesota Statutes 2020, section 60A.033, is amended by adding a subdivision to
- 3.14 read:
- 3.15 Subd. 12. Report to the legislature. Each year by February 1 the commissioner must
- 3.16 report the following information to the chairs and ranking minority members of the house
- 3.17 of representatives and senate committees having jurisdiction over commerce: a listing of
- 3.18 the number of pending market conduct exams and the year the exams were commenced;
- 3.19 the number of exams closed during the prior year and the current total of costs charged to
- 3.20 the companies for each exam; whether the exam is being conducted, in whole or in part, by
- 3.21 third-party examiners; and other information that the chairs or ranking minority members
- 3.22 may reasonably request, subject to the limitations of section 60A.031, subdivision 4,
- 3.23 paragraph (f).
- 3.24 Sec. 8. Minnesota Statutes 2020, section 70A.06, is amended by adding a subdivision to
- 3.25 read:
- 3.26 Subd. 4. Enforcement. With respect to any rate or form filed under this section that is
- 3.27 not disapproved under subdivision 1a or 2 or section 70A.11, upon a determination that the
- 3.28 rate or form violates Minnesota law the commissioner may only order a filer to prospectively
- 3.29 discontinue use of the rate or the form. The commissioner is prohibited from subjecting the
- 3.30 filer to a civil penalty or other sanction for any filed rate or form.

4.1 Sec. 9. REPEALER.

4.2 Minnesota Statutes 2020, section 60A.033, subdivision 3, is repealed.

4.3 Sec. 10. EFFECTIVE DATE.

4.4 This act is effective July 1, 2022."

4.5 Amend the title numbers accordingly

4.6 And when so amended the bill do pass and be re-referred to the Committee on Finance.

4.7 Amendments adopted. Report adopted.

4.8
4.9 *Caey Tolson*
(Committee Chair)

4.10 March 14, 2022.....
4.11 (Date of Committee recommendation)