

**R E P O R T**  
**of the**  
**CONSUMER PROTECTION ADVISORY COUNCIL**  
**appointed by**  
**ATTORNEY GENERAL WALTER F. MONDALE**

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STATE OF MINNESOTA

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## FOREWORD

By Attorney General Walter F. Mondale

When I established a Consumer Protection Unit in my office in November, 1960, it was well known that many of the laws on the books which gave government power to work in behalf of the consumer were antiquated and inefficient. We proceeded, nevertheless, to establish our consumer protection program, because the need was great. At the same time we prepared legislation which would update the tools of government to combat the cheats operating in the market place. We presented a bill to the 1961 session of the legislature which would enable us to take effective action against the petty deceivers. That bill was never passed by the legislature. We immediately proceeded to gather material for the presentation of another proposal to the 1963 session of the legislature. With that in mind, in the fall of 1961 I appointed a 16-member Consumer Protection Advisory Council.

The council is composed of leaders in business and labor. Its members represent a true cross section of our society. Liberals, independents and conservatives, labor interests, business interests, farm interests, civic organizations are all represented on the council.

The council decided immediately that it wished to be a working committee. Its members served without pay, undertook extensive travel expenses to meet during the past ten months and gave time away from their affairs to participate in this program to satisfy the urgent need of the consumer.

The attached report is the product of this effort. It consists of six bills for legislation in six specific areas. In addition it is recommended that the legislature pass legislation creating a formal consumer's council to be appointed by the governor or the attorney general which will continue to examine problems of the consumer and recommended legislative solutions to those problems. The excellence of the report indicates the amount of work that the council members put into it. The citizens of Minnesota owe much gratitude to the council for the sacrifices and effort made in their behalf.

Drafting bills, however, is far from having them enacted into law. In order to do this, the citizens of the state of Minnesota must urge their representatives in the Minnesota legislature to adopt the program recommended by the council. There will be many special interest groups lobbying against these bills. If the legislators are left subject only to the pressures of these groups and the people do not speak in behalf of the recommendations made for their protection, we can have little hope for the successful passage of these bills. I therefore am undertaking a campaign to educate the people as to the need and meaning of these bills, so that they in turn will communicate with their legislators and urge adoption of this program. I urge all citizens to contact their legislative candidates to indicate their support for the program.

## RESOLUTION

By Attorney General Walter F. Mondale's  
Consumer Protection Advisory Council

The council, meeting over the course of ten months in eight separate meetings, considered the proposals made in this report; and, by the following resolution, which was adopted without negative vote and with only one abstention, and that in the case of the private trade school recommendation, forwarded this report to the Attorney General for his referral to the 1963 session of the Minnesota legislature.

"RESOLVED THAT the attached memoranda and bills be recommended to the 1963 session of the Minnesota legislature. From now until consideration of these proposals by the legislature, the council will make itself available for consultation with interested citizens concerning the matter herein recommended. The council also wishes to make itself available to cooperate with the legislature when these bills are considered."

## RECOMMENDED LEGISLATION

By Attorney General Walter F. Mondale's  
Consumer Protection Advisory Council

### I

#### DEBT PRORATING

Easy credit is one of the signs and possibly one of the causes of the good economic times experienced by the United States since the end of World War II. Statistics showing cumulative installment debt are now used as an index of economic activity. Easy credit has enabled many to enjoy goods which would be outside their reach without it.

This laxness in granting credit has, however, like all good things, been abused both by debtors and creditors so that there are many who obtain so much credit that they are no longer able to meet all payments and still purchase the staples needed to maintain day to day existence. Such practices create serious sociologic and economic problems both for the debtor and for the creditor.

Devices for debtor relief consist of bankruptcy in the extreme and forbearance of action by the creditor in the least. Bankruptcy should be the last remedy attempted, since it damages both the creditor in an obvious way and the debtor by injuring his reputation and ability to obtain further credit. Forbearance can be attempted through the wage earner's plan provided by the federal bankruptcy statutes. This process, however, is expensive both to the debtor and to the government. The debtor's attempts to obtain voluntary forbearance are suspect by his creditors, since he can show nothing to indicate that his financial responsibility has changed for the better. He may employ an attorney to perform this service. In many states only attorneys are permitted to undertake the job.

The state of Minnesota, however, has chosen to permit the conduct of this service by non-lawyer businessmen. Present law authorizes such business and regulates it to a certain extent.

The Attorney General's Consumer Protection Advisory Council finds, however, that regulation is inadequate under present laws. The Better Business Bureaus of Minneapolis and St. Paul, the Attorney General's staff and the office of the Secretary of State have received complaints from debtors who have used private debt prorating agencies. These complaints disclose that additional regulation of the agencies to cover the following problems is necessary:

(1) Many of the licensed debt prorating agencies have adopted the practice of contracting with the debtor to receive a stipulated sum per month and then to distribute the sum to the creditors. Many of the licensed agencies write into their contracts permission to accumulate a reserve of funds. Minnesota Statutes, Section 332.09, paragraph (2) fails to control the length of time during which such a reserve may be kept, because although the period 35 days is the stated period during which moneys of the debtor may be held prior to payment to the creditors, the statute also permits the terms of the contract to provide a longer period of time. As a result, the debtor finds that he has made payments over periods up to five and six months and that very little of these funds have been advanced to the creditors. Thus, the debtor finds that his payments have been increased by the amount he is obligated to pay to the debt prorating agency but that his debts are not declining.

Inevitably if the holding of moneys goes on long enough, this will generate creditor dissatisfaction and creditors will attempt to sue and attach or garnish the property of the debtor. The prorating agencies maintain that the reserve fund is necessary to provide against the contingency which may occur if one of the creditors becomes impatient for his funds and tries to collect the whole debt. In this case if an adequate reserve is maintained, the agency can then pay the impatient creditor and prevent the attachment or garnishment of the debtor's property.

It appears to the Council that this practice has been abused and that in fact the real reason for the holding of the debtor's funds is to insure that the agency will receive its whole fee even in the event that the debtor becomes dissatisfied with the plan. Creation of a reserve causes more dissatisfaction among creditors than it prevents. It is therefore recommended that legislation herein proposed prevent the accumulation of any reserve fund and require that funds of the debtor be paid to creditors within 30 days of receipt.

(2) In many cases the financial responsibility secured by the present requirement of the \$5,000 surety bond is inadequate to prevent loss to debtors participating in the plan in the event of subsequent bankruptcy or default by the agency. Therefore, it is the recommendation of the Council that a bond be required in an amount not less than the highest month's receipts of the preceding calendar year or \$15,000, whichever is larger, with the secretary able to set a higher amount, indemnifying the state and the debtors participating in the plan.

(3) Present statutes provide no limitation upon the fees which may be charged by the prorating agency, nor is there any requirement in present legislation that fees charged be based upon the amount of debts liquidated. The present system prevailing is that the debtor signs the contract with the prorating agency in which all of his then present debts are listed. A fee ranging from 15 to 20 percent of the outstanding balance of debts is agreed to be paid to the agency by the debtor.

This fee is not conditioned upon full performance of the debt liquidation by the debt prorating agency, nor is the debtor given an opportunity to obtain a reduction in the fee in the event that he prepays his debts or defaults on the contract. No provision is made for the failure of the agency to obtain full compliance by all creditors. Thus, if the agency fails to obtain voluntary forbearance from one of the creditors and that creditor sues the debtor, garnishing his wages, the debtor's ability to make payments to the agency is impaired and he must default upon the contract in many instances. Even though he defaults, the agency is still entitled to its full fee based upon the total balance of debts. If the agency has failed to build a reserve necessary to cover its fee, it will soon bring legal action against the debtor compounding his troubles.

It is the opinion of the Council, therefore, that legislation must place a maximum limit upon the fees to be charged the debtor. The council recommends the figure of 15 percent. It is also the opinion of the Council that the debtor should be given the opportunity to cancel his contract with the agency should the agency fail to obtain participation by the creditors which the debtor wants included, since failure to obtain participation not only does the debtor no service, but in fact does him a disservice.

Further, the Council recommends that the fees charged by the agency be limited to the maximum percentage multiplied by the amount of debt actually liquidated through the plan and that a reduced fee be charged upon debts which are actually unliquidated even though the plan be terminated by the debtor. In the event of prepayment of debts or of termination of the plan contrary to the contract between the debtor and the agency, a provision is made for partial payment to the agency for costs incurred in arranging the compliance of creditors.

(4) At times an agency is able to obtain a compromise of the claim of the creditor against the debtor. Instances have been reported where the benefit of such compromise is neither reported to the debtor nor credited to him. New legislation should require that a compromise of debts be reported and credited to the debtor.

The present requirement of Minnesota Statutes 332.08 should be retained. This section requires that the agency keep books, accounts and records which will enable the Secretary of State or the county attorney to determine whether the provisions of the act have been complied with.

(5) The existing legislation requires that prior to licensing, the county attorney of the county in which the agency intends to locate approve the application of the agency for license prior to its issuance. The statute does not make clear, however, whether an agency licensed in one county may then locate branch offices in other counties regardless of the lack of permission obtained from the county attorney in the county in which the proposed branch is to be located. The statute should make it clear that the permission of the county attorney of each county in which a branch is to be located must be obtained before license to operate such branch may be obtained from the Secretary of State.

(6) Appearances where made before the Council by representatives of social service organizations and retail credit bureaus who are operating financial planning services on a non-profit basis. It is the opinion of the Council that these organizations are doing an honest and efficient job and that the regulation provided herein should not apply to such organizations if operated as non-profit corporations.

(7) There remains a question whether the operation of a debt prorating agency by non-lawyers is the unauthorized practice of law. The legislature in providing legislation permitting the licensing and regulation of such agencies under present statute has expressed its opinion that such operation is not the unauthorized practice of law. The question, however, is open to re-evaluation by the legislature.

It is recommended, however, that the attached statute replace present law if the legislature determines that debt prorating does not constitute the unauthorized practice of law.



A BILL

FOR AN ACT RELATING TO THE DEBT PRORATING  
AND FINANCIAL PLANNING SERVICE; REPEALING  
MINNESOTA STATUTES 1961, SECTIONS 332.04  
THROUGH 332.10 AND 332.11, SUBDIVISION 2.

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

Section 1. [DECLARATION OF POLICY.] The Business of rendering financial planning service by compromising, settling, adjusting, prorating or liquidating the indebtedness of a debtor is a matter of public interest and concern and is subject to regulation and control in the public interest.

Sec. 2. [DEFINITIONS.] Subdivision 1. Words, terms and phrases. The following words, terms and phrases, where used in this act shall have the meanings ascribed to them in this section.

Subd. 2. [Financial Planning service.] "Financial planning service" means the planning and management of the financial affairs of an individual, and the distribution of money to the creditors thereof, or acting as the agent of an individual in the distribution of his income to his creditors, whether or not the person so acting receives a fee or charge for such services. Any person, partnership, association or corporation so engaged shall be deemed to be rendering "financial planning service." This term shall not be deemed to include the following when engaged in the regular course of their respective businesses and professions:

- (a) Attorneys at law;
- (b) Banks, state or national, duly authorized to transact business in the state of Minnesota;
- (c) Employees of licensees under this act;
- (d) Judicial officers or others acting pursuant to court order;
- (e) Nonprofit corporations, organized under Minnesota Statutes 1961, Chapter 317, giving financial planning service.

Subd. 3. [Secretary.] "Secretary" means the secretary of state of the state of Minnesota.

Subd. 4. [Individual.] "Individual" means the debtor for whom the financial planning service is performed.

Subd. 5. [Person.] "Person" means any individual, firm, partnership, association or corporation.

Sec. 3. [REQUIREMENT OF LICENSE.] On or after July 1, 1963 it shall be unlawful for any person to operate a financial planning service or engage in said business as herein defined except as authorized by law and without first having obtained a license as hereinafter provided.

Sect. 4. [LICENSE.] Subdivision 1. [Application.] Application for a license to operate a financial planning service in this state shall be made to the secretary

and shall be in writing, under oath, and in the form prescribed by the secretary, and shall contain the full name and address of the applicant and, if the applicant is a partnership or association, of every member thereof and, if a corporation, of each officer, director and shareholder owning more than 25% of outstanding common stock thereof; the application shall also contain the county and municipality with street and number, if any, where the business is to be conducted, and such other pertinent information as the secretary may require.

Subd. 2. [Fee, bond.] Each applicant, at the time of making such application, shall pay to the secretary the sum of \$30.00 as a fee for investigation of the applicant, and the additional sum of \$100.00 as a license fee. Every applicant shall submit to the Secretary, at the time of the application for a license, a bond to be approved by the secretary in which the applicant shall be the obligor, in a sum not less than the highest month's receipts in the preceding calendar year of operation or \$15,000.00, whichever is larger, or in such larger amount as the secretary may require, and in which an insurance company, which is duly authorized by the state of Minnesota, to transact the business of fidelity and surety insurance shall be a surety; provided, however, the secretary may accept a deposit in cash equal to the bond requirement in lieu of the surety bond, such sum to be deposited with the state treasurer.

Subd. 3. [Condition of bond.] The bond shall run to the state of Minnesota for the use of the state and of any person or persons who may have a cause of action against the obligor by virtue of the provisions of this act. Such bond shall be conditioned that said obligor will faithfully conform to and abide by the provisions of this act and of all rules and regulations lawfully made by the secretary hereunder and pay to the state and to any such person or persons any and all money that may become due or owing to the state or to such person or persons from said obligor under and by virtue of the provisions of this act.

Sec. 5. [QUALIFICATIONS FOR LICENSE.] Subdivision 1. [Qualifications.] Upon the filing of the application and the approval of such bond and the payment of the specified fees, if the secretary shall, upon investigation, find:

(a) that the financial responsibility, experience, character and general fitness of the applicant, and of the members thereof (if the applicant be a partnership or association) and of the officers and directors thereof (if the applicant be a corporation) are such as to indicate in the discretion of the secretary that the business will be operated fairly, honestly and efficiently within the purposes of this act, and that any other businesses or professions engaged in by the applicant do not create a conflict of interest with respect to his ability to represent an individual fairly;

(b) that the applicant, and the members thereof (if the applicant be a partnership or association) and the officers, directors, and each stockholder owning more than 25% of outstanding common stock (if the applicant be a corporation) have not been convicted of any crime involving moral turpitude and that such person or persons have not had a record of having defaulted in the payment of money collected for others, including the discharge of such debts through bankruptcy proceedings, and that such person or persons have fully complied with the requirements of this act, the secretary shall thereupon issue and deliver a license to the applicant to engage in the financial planning service business in accordance with the provisions of this act at the location specified in the application, which license shall remain in full force and effect until it is surrendered by the licensee or revoked by the secretary as hereinafter provided; provided, however, that each license shall expire by the terms thereof on July 1 next following the issuance thereof unless the same be renewed as hereinafter provided.

Subd. 2. [Plural Licenses.] More than one license may be issued to the same applicant for separate places of business, but separate applications shall be made for each place of business.

Sec. 6. [RENEWAL OF LICENSE.] Each licensee under the provisions of this act may, on or before June 1, make application to the secretary for renewal of its license. Such application for renewal shall be on a form prescribed by the secretary and shall be accompanied by a fee of \$100.00 together with a bond as required in the case of an original application.

Sec. 7. [LICENSE, DISPLAY AND LOCATION.] Each license issued hereunder shall be kept conspicuously posted in the place of business of the licensee. The business address may be changed by any licensee upon 10 days' prior written notice thereof to the secretary.

Sec. 8. [DENIAL OF LICENSE.] Any application for a license or renewal thereof hereunder shall be approved or denied within 60 days of the filing of such application with the secretary. If the license shall be denied, then the applicant shall be so notified by five days' written notice and shall be given an opportunity to be heard thereon before the secretary within 30 days of denial of license.

Sec. 9. [REVOCATION OF LICENSE.] Subdivision 1. [Grounds.] The secretary shall, upon five days' notice to the licensee by registered United States mail, directed to the licensee at the address set forth on the license, stating the contemplated action and in general the grounds therefore and upon reasonable opportunity to be heard prior to such action, revoke or refuse to renew any license issued hereunder if he shall find that:

(a) any licensee has failed to pay the annual license fee, or to maintain in effect the bond required under the provisions of this act or failed to comply with any order, decision or finding of the secretary made pursuant to and within the authority of this act; or that

(b) the licensee has violated any provisions of this act or any rule, regulation or direction lawfully made by the secretary under and within the authority of this act, or that

(c) any fact or condition exists which, if it had existed at the time of the original application for a license, would have warranted the secretary in refusing its issuance; or that

(d) any applicant or party to an application has made any false statement or representation to the secretary in applying for a license hereunder.

Subd. 2. [Notification of interested persons.] Upon issuing an order revoking a license issued hereunder, the secretary shall notify all individuals who have contracts with such licensee and all creditors who have agreed to a plan of forbearance that such license has been revoked and that the order of revocation is subject to appeal.

Subd. 3. [Receive funds of licensee.] When an order is issued revoking the license of a licensee hereunder, the secretary shall issue an order appointing a receiver to receive the assets of such licensee pending a final determination of the validity of the order of revocation. If such order is finally upheld, the receiver so appointed shall make a prompt and fair distribution of assets.

Sec. 10. [CONTRACTS.] Each contract entered into by the licensee and the individual shall be in writing. The licensee shall furnish the debtor with a copy of the written contract which shall set forth (1) the charges agreed upon for the services of the licensee, (2) the terms upon which the debtor may cancel the contract as set out in section 12 hereof, and (3) such other matter as the secretary may require by rule or regulation.

Sec. 11. [BOOKS, RECORDS, AND INFORMATION] Each licensee hereunder shall maintain and shall make available to an individual records and accounts which will enable such individual to ascertain the amounts paid to the creditors of the individual. A statement showing the total amount received and the total disbursements to each creditor shall be furnished by the licensee to any individual upon request therefore by said individual. Each licensee licensed hereunder shall issue a receipt for each payment made by the individual to the licensee. Each licensee shall prepare and retain in the file of each debtor a written analysis of the debtor's income and expenses to substantiate that the plan of payment is feasible and practical.

Sec. 12. [FEES AND CHARGES OF LICENSEES AND CONTRACT CANCELLATION.] Subdivision 1. [Cancellation.] An individual may cancel the contract with the licensee hereunder upon 30 days' written notice to the licensee in which event the licensee shall be entitled to such charges as are provided herein.

Subd. 2 [Approval of plan.] In no event shall more than the prorated service charge for one month be payable by the individual unless a plan of payment of his obligations shall have been accepted by his creditors to an extent satisfactory to the individual and approved by him in writing.

Subd. 3. [Proportionate fee.] From each sum periodically deposited with the licensee by the debtor, the licensee shall withdraw as a fee no more than an amount equal to the proportion which the total fee under the contract bears to the total indebtedness to be liquidated under the contract. In no event shall total fees exceed 15% of disbursements made by the financial planning service.

Subd. 4. [Remission of funds. Reserve.] Each licensee shall remit the funds received by it less the amount withheld for current fees as determined in subdivision 3, above, to the creditors of the debtor within 30 days after receipt of such funds. No licensee shall retain a reserve of such funds for any reason whatsoever.

Subd. 5. [Credit after cancellation or prepayment.] In the event of prepayment of the listed debts or cancellation by the debtor or in the event of cancellation by the licensee after willful default by the debtor for a period of 45 days, the debtor shall be entitled to a credit on the agreed service charges of 60 percent of the charges due for the unexpired term of the contract at the time of such prepayment or cancellation and the balance of the charge shall be then due and payable to the licensee.

Sec. 13. [PROHIBITIONS.] Subdivision 1. [False Advertising.] No licensee shall advertise in any manner whatsoever, whether written or oral, any statement or representation with regard to the rates, terms or conditions of financial planning service which is false, misleading or deceptive.

Subd. 2. [Tie-in sales.] No licensee shall require as part of the agreement between the licensee and an individual the purchase of any services, stock, insurance, commodity or other property or any interest therein.

Subd. 3. [Compromise of debts.] Any compromise of debts arranged by the licensee between the debtor and creditor shall be reported to the debtor and shall inure solely to his benefit. The licensee shall obtain the written consent of the debtor prior to any such compromise.

Sec. 14. [RULES AND REGULATIONS.] The secretary shall make and file in accordance with the provisions of Minnesota Statutes, 1961, Chapter 15, the Administrative Procedures Act all reasonable rules and regulations as shall be necessary for the administration of this act.

Sec. 15. [PENALTIES.] Any person willfully violating any of the provisions of this act shall be deemed guilty of a gross misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment.

Sec. 16. [CONTRACTS VOID.] Any contract for financial planning service as defined in this act made by an unlicensed person shall be null and void and of no legal effect.

Sec. 17. [INJUNCTION.] To engage in a financial planning service business without a valid, existing license so to do is hereby declared to be inimical to the public welfare and constitute a public nuisance. The secretary, the attorney general of the state of Minnesota or the county attorney of any county in the state of Minnesota may apply for an injunction in district court to enjoin any person from engaging in said business and any such court may issue temporary or permanent injunctions as the circumstances shall require. Such injunction proceedings shall be in addition to and not in lieu of penalties and remedies otherwise provided in this act.

Sec. 18. [INVESTIGATION.] The secretary may from time to time examine the books and records of every licensee hereunder and of any person engaged in the business of financial planning service as defined in section 2 of this act. The secretary, once during any calendar year, may require the submission of an audit prepared by a certified public accountant of the books and records of each licensee hereunder. The secretary shall require once each year this submission of a statement of records certified by the applicant.

Sec. 19. [EFFECTIVE DATE.] This act shall become effective on the first day of July, 1963.

Sec. 20. [REPEAL.] Minnesota Statutes 1961, Sections 332.04 through 332.10 and 332.11, Subdivision 2 are repealed as of the day this act becomes effective.

## II

### PRIVATE TRADE SCHOOLS

Numerous statements and complaints from citizens of the state of Minnesota on file in the office of the Attorney General, in the office of the Department of Education and in the office of the Secretary of State indicate that the regulation provided by present statutes over private trade schools is inadequate. The Attorney General's Consumer Protection Advisory Council has, therefore, after consideration of the problems presented by the complaints filed with these offices, recommended that the attached bill regulating the private trade school industry be passed by the 1963 session of the Minnesota legislature.

The philosophy underlying the Council's recommendation is that education of the youth of this state is a matter of great concern to the state itself and the future of its citizens. To allow inadequate education to be sold to the public is costly, not only in terms of the dollars spent by prospective students, but also in the time and energy and ambition wasted by these students in attempting to acquire new skills in order to advance in society. It is the Council's determination that the development of the economy of this state and the skills of its citizens requires that education, even when offered for profit, should meet certain minimum tests.

The Council, therefore, recommends that the Department of Education license all private trade schools and that the Commissioner of Education be vested with power to establish minimum standards over all such schools, which standards insure that students seeking education at such schools can be sure of sound financial backing behind the school, adequate training facilities, tools and equipment, qualified teachers, a reasonable charge, sanitary and safe working conditions and living quarters, and a worthwhile curriculum and field of study which will be of use to the student when seeking and performing employment. The Commissioner will have power to make reasonable rules and regulations for the implementation of the act.

It is the Council's determination that the Department of Education is the proper governmental unit to provide regulation of the private trade school industry, since the department has established a reservoir of expertise in establishing educational standards. It has been engaged in the establishment of such standards for years for the elementary and secondary schools of the state.

Section 7 of the act requires that each private trade school distribute a catalog, prospectus or brochure to each prospective student before contracting with such student or accepting funds from him. This catalog must be approved by the Commissioner and must contain information which the Commissioner requires. The principle adopted here is similar to that which obtains in securities registration throughout the United States, that is, the seller of education, as the seller of securities, is required to make full disclosure concerning the material which he is offering to the public. This provision, as well as the provision requiring the licensing of agents of private trade schools who solicit business for such schools and as well as the prohibition contained in the statute against false statements in such solicitation, is designed to prevent false, misleading and incomplete presentations made by agents selling courses for private trade schools.

Section 8, subdivision 4 of the bill provides that the Commissioner's determination of the evidence presented to him when considering the granting of a license or the revocation of a license shall be final, except when the district court shall find from a consideration of the same evidence that the Commissioner has abused his discretion or acted arbitrarily, capriciously or unreasonable or that the Commissioner's

order is not based on substantial evidence. In other words, the district court is not permitted to hear new evidence and try the matter anew. It can only consider the Commissioner's action based upon the evidence presented to the Commissioner at the hearing and upon such review decide whether an unreasonable order was issued or that the Commissioner's discretion was abused. The district courts of the state are given power to enjoin violations of the act, and violations of the act are made a gross misdemeanor punishable by a fine of \$500 or imprisonment not exceeding one year, or both.

The act is designed to cover all educational facilities which are not now adequately regulated as to truth in selling and as to minimum standards. For this reason, the act does not exclude certain schools which were excluded in the present statute, section 141.01, such as private trade schools engaged exclusively in the teaching of business subjects, schools engaged in the teaching of medical technology, schools engaged in giving instruction by correspondence. The Commissioner of Education is given power to inspect the books and records, classrooms, dormitories, equipment, tools and classes of the private trade school license holder or applicant for license.

Section 10 of the act directs the Commissioner of Education to hold hearings and make rules and regulations governing the private trade schools engaged in the teaching of medical science subjects. This section of the act instructs the Commissioner to give notice to and obtain the approval of the State Board of Health when hearings are held on medical courses.

It is the opinion of the Council that this bill should receive special attention by the Minnesota legislature in its 1963 session.

A BILL

FOR AN ACT RELATING TO PRIVATE SCHOOLS  
MAINTAINING OR CONDUCTING COURSES FOR  
PROFIT OR FOR TUITION; REPEALING MINNE-  
SOTA STATUTES 1961, CHAPTERS 141 and 142.

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

Section 1. [DEFINITIONS.] Subdivision 1. [Words, terms and phrases.] The following words, terms and phrases, where used in sections 1 to 15, shall have the meanings ascribed to them in this section.

Subd. 2. [Department.] "Department" means the department of education.

Subd. 3. [Commissioner.] "Commissioner" means the commissioner of education.

Subd. 4. [Agent.] "Agent" means a person who acts as an agent, solicitor, broker, salesman, independent contractor, registrar, vocational counselor, or another aiding in the enrolling of students, and who procures students or enrollees for a private trade school by solicitation in any form made at any place.

Subd. 5. [Person.] "Person" means any individual, partnership, association, or corporation or any combination thereof.

Subd. 6. [Private trade school.] "Private trade school" means any person, located within or without the state, maintaining, advertising, or conducting any course of instruction for profit or for a tuition charge.

Subd. 7. [Course of instruction.] "Course of instruction" means any classroom, correspondence, or extension course of instruction.

Subd. 8. [Medical science course.] "Medical science course" means any course of instruction in which are taught subjects relating to diagnosis, prognosis, or treatment of the human teeth and body.

Sec. 2. [RULES AND REGULATIONS.] The commissioner shall make and enforce reasonable rules and regulations to carry out the intent and purposes of section 1 to 15. Such rules and regulations shall be adopted according to the procedures provided by the Minnesota Administrative Procedures Act.

Sec. 3. [LICENSE.] Subdivision 1. [Required.] No private trade school shall maintain, advertise, or conduct any course of instruction in Minnesota without first obtaining a license from the department.

Subd. 2. [Application.] Application for a license shall contain the following information:

(a) The title or trade name of the private trade school.

(b) The names and addresses of all officers and directors of the applicant if the applicant is a corporation or association.

(c) The names and addresses of all partners if the applicant is a partnership.



(d) The names and addresses of all proprietors if the applicant is a proprietorship.

(e) Such other information as the commissioner, in his discretion, may require.

Subd. 3. [Certification.] Each application shall be signed and certified to under oath by the proprietor (if the applicant is a proprietorship), by all partners (if the applicant is a partnership), or by the president and secretary of the applicant (if the applicant is a corporation or association).

Subd. 4. [Bond.] No license shall be issued unless the applicant files with the commissioner a continuous corporate surety bond in the sum of \$10,000.00 conditioned upon the faithful performance of all contracts and agreements with students made by the applicant. Such bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is cancelled, for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the principal sum of \$10,000.00. The surety on any such bond may cancel it upon giving sixty days' notice in writing to the commissioner and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. In lieu of bond, the applicant may deposit with the state treasurer the sum of \$10,000.00 in cash, or securities such as may be legally purchased by savings banks or for trust funds in an aggregate market value of \$10,000.00.

Subd. 5. [Resident agent.] No license shall be issued to an applicant domiciled outside the state of Minnesota unless the applicant files with the secretary of state a sworn statement designating a resident agent authorized to receive service of process. Such statement shall designate the secretary of state as resident agent for service of process in the absence of an agent otherwise so designated. Such authorization shall be irrevocable as to causes of action arising out of transactions occurring prior to the filing of written notice of withdrawal from the state of Minnesota filed with the secretary of state.

Subd. 6. [Minimum standards.] No license shall be issued unless the commissioner, in his discretion, first determines:

(a) That the applicant has a sound financial structure with sufficient resources for the proper use and support of the school to be maintained.

(b) That the applicant has satisfactory training facilities with sufficient tools and equipment and the necessary number of work stations to train adequately the number of students proposed to be enrolled.

(c) That the applicant employs a sufficient number of qualified instructors sufficiently trained by experience and education to give the training contemplated.

(d) That the applicant's charge made for instruction is reasonable based upon the service rendered.

(e) That the premises and conditions under which the students work and study are sanitary and healthful and safe, according to modern standards.

(f) That the curriculum and field of study to be offered by the applicant are sufficient to provide the student with knowledge and skills of use to him when seeking and performing employment.

(g) That living quarters which may be maintained by the applicant for students are sanitary and safe.

Subd. 7. [Fees and term of license.]

(a) An application for the initial issuance of a license shall be accompanied by a filing fee of \$300.00.

(b) All licenses shall expire on December 31 of each year. Each application for renewal shall be accompanied by a renewal fee of \$100.00.

(c) All fees collected by the department under sections 1 to 15 shall be retained by the department for the administration of this act.

(d) Each renewal application for a license shall contain all information required in an initial application and the commissioner may, in his discretion, refuse to issue a renewal license for the same reasons he might refuse to issue an initial license. Application for renewal of license shall be made on or before December 1 of each calendar year.

Sec. 4. [PERMITS FOR AGENTS.] Subdivision 1. [Required.] An agent representing a private trade school must obtain an agent's permit before soliciting business for such school.

Subd. 2. [Application for permit.] The application for such permit shall state the full name, address, and age of the applicant with such other information as the commissioner may, in his discretion, require.

Subd. 3. [Refusal of permit.] No permit shall be issued unless:

(a) The applicant first files with the commissioner a surety bond to the state of Minnesota in the sum of \$1,000.00. The bond shall be conditioned for the faithful performance of all contracts and agreements with students, as disclosed by the application for license of the school for which the agent is soliciting, and for compliance with sections 1 to 15. Every permit shall expire on December 31 following the date of issuance. Application for renewal of permit shall be made on or before December 1 of each calendar year.

(b) The commissioner is satisfied that the applicant is of honest and of moral character.

Subd. 4. [Additional permits.] An agent representing more than one private trade school shall obtain a separate permit for each school represented.

Subd. 5. [Fee.] The initial and renewal applications for a permit shall be accompanied by a fee of \$25.00.

Sec. 5. [PAYMENTS.] Subdivision 1. [Refunds.] Each private trade school licensed under sections 1 to 16 shall refund tuition and other charges when the student gives written or oral notice of cancellation according to the following schedule:

(a) When notice of cancellation is received prior to the commencement of the course of instruction, all tuition and other charges except \$25.00 shall be returned to the student.

(b) When notice of cancellation is received after commencement of the course of instruction, but prior to completion of the first 25% of the course of instruction, all tuition and other charges except 25% of those received shall be refunded to the student.

(c) When notice of cancellation is received after completion of 25% of the course of instruction, but prior to completion of 50% of such course, all tuition and other charges except 50% of those received shall be refunded to the student.

(d) After completion of 50% of the course of instruction, the student is entitled to no refund.

Subd. 2. Instrument not to be negotiated. No private trade school shall negotiate any note or other instrument received as payment of tuition and other charges prior to completion of 50% of the course of instruction in payment for which such note or instrument is received. Prior to such time such notes or instruments may be transferred by assignment to purchasers who shall be subject to all defenses available against the private trade school named as payee.

Sec. 6. [PROHIBITIONS.] Subdivision 1. [Not to advertise state approval.] No private trade school or agent shall advertise or represent in writing or orally that such private trade school or any of its program or personnel are licensed, registered, or approved by the state of Minnesota or any of its departments.

Subd. 2. [Unlawful designations.] No private trade school shall apply to itself either as a part of its name or in any other manner the designation of "college" or "university" unless such school applies for and receives certification from the commissioner that it meets appropriate standards and is entitled to such designation.

Subd. 3. [False statements.] No private trade school or agent shall advertise falsely or misrepresent in any manner to any person any matter material to a course of instruction.

Sec. 7. [CATALOG.] Subdivision 1. [Required.] Each private trade school and agent thereof shall deliver to each prospective student a catalog, prospectus, or brochure before accepting funds from or contracting with such student.

Subd. 2. [Commissioner to approve catalog.] Such catalog, prospectus, or brochure shall be filed with and approved by the commissioner prior to its general distribution and shall contain such information as the commissioner, in his discretion, shall require.

Sec. 8. [REFUSAL OR REVOCATION OF LICENSE OR PERMIT.] Subdivision 1. [Grounds.] The commissioner may refuse to issue or to renew, or may revoke any private trade school license or agent's permit for any one or any combination of the following grounds:

(a) Willful violation of any provision of this act or any rule or regulation promulgated by the department.

(b) Furnishing to the department of false, misleading, or incomplete information.

(c) Presenting to prospective students information relating to the private trade school which is false, fraudulent, or misleading.

(d) Refusal to allow inspection or supply information after written request therefor by the commissioner.

(e) The existence of any circumstance which would be grounds for refusal of an initial or renewal license under section 3.

Subd. 2. [Notice and hearing.] Such refusal to issue or to renew or such revocation of a private trade school license or agent's permit shall be ordered only after 20 days' notice to the holder of such license or permit setting a time for hearing before the commissioner.

Subd. 3. [Appeal.] An order refusing or revoking a license or permit is appealable to the district court within 30 days after notice thereof to the holder of the license or permit upon the following grounds:

- (a) That the commissioner abused his discretion in making such order.
- (b) That the commissioner's order is arbitrary, capricious, or unreasonable.
- (c) That the commissioner's order is not based on substantial evidence.

Subd. 4. [No trial de novo.] The district court shall review the order of the commissioner considering only the evidence presented to the commissioner and shall not determine the issues upon a trial de novo.

Sec. 9. [INSPECTION.] The commissioner or his delegate may inspect the books and records, classrooms, dormitories, tools, equipment and classes of any private trade school licensee or applicant for license at any time. The commissioner may require the submission of such information as he deems necessary at any time.

Sec. 10. [MEDICAL SCIENCE COURSES.] The commissioner shall promulgate rules and regulations relating to unhealthful and dangerous practices in medical science courses. Notice of hearing concerning such rules and regulations shall be given to the state board of health. Such rules and regulations shall be adopted only after the commissioner obtains the written endorsement of such from the state board of health. The commissioner may also consult with such local boards of health as he deems necessary.

Sec. 11. [INJUNCTION.] Upon application of the commissioner the district court shall have jurisdiction to enjoin any violation of this act.

Sec. 12. [GROSS MISDEMEANOR.] Violation of any provision of this act shall be a gross misdemeanor, punishable by a fine not exceeding \$500.00, or by imprisonment for a period not exceeding one year, or both.

Sec. 13. [APPLICATION.] None of the provisions of this act shall apply to the following:

- (a) Colleges authorized by the laws of Minnesota or of any other state or foreign country to grant degrees;
- (b) Schools of nursing accredited by the state board of nursing or an equivalent public board of another state or foreign country;
- (c) Public schools;
- (d) Private schools complying with the requirements of Extra Session Laws 1959, Chapter 71, Article I, Section 10, Subdivision 2;
- (e) Private and parochial non-profit schools exempt from taxation under the Constitution of Minnesota;
- (f) Private trade schools which are exempt from taxation under Minnesota Statutes 1957, Section 290.05;

(g) Courses taught to students in a valid apprenticeship program taught by or required by a trade union;

(h) Schools exclusively engaged in training physically handicapped persons for the state of Minnesota;

(i) Schools now or hereafter licensed by boards authorized under Minnesota law to issue such licenses.

(j) Schools and educational programs conducted by firms, corporations or persons for the training of their own employees, for which no fee is charged.

(k) Schools engaged exclusively in the teaching of purely avocational or recreational subjects.

Sec. 14. [EFFECTIVE DATE.] This act shall be effective July 1, 1963.

Sec. 15. [REPEAL.] Minnesota Statutes 1961, Chapters 141 and 142 are repealed as of the day this act becomes effective.

### III

#### SOCIAL TRAINING SCHOOLS

There are people, some never married, some widowed, who are so lonely that they are susceptible to the bright hope of social companionship and veiled implications of secret romance offered by clever and appealing salesmen of dancing school courses. Instances have been reported to the council where such people have agreed to pay sums of four and five figures for dancing lessons to occur in the future.

Sums as high as \$17,000 could be contracted for if a lonely widow is made to think that her refusal will incur the displeasure of her "teacher." The lonely victims of the unethical dance studios lose their desire to protect whatever pension they may have or whatever estate their husbands may have left to them. When they are faced with the fear of losing their newly found associations in the dancing school by refusing to sign contracts for more and more "dancing lessons," they become easy victims.

The council realizes that there are ethical dance classes established for only the purpose of giving lessons to people interested in dancing.

The council finds, however, from the records of the office of Attorney General, the Department of Business Development, and Secretary of State that the abuses of the unethical studios are serious and tragic to many lonely people.

Legislation, therefore, is recommended which will limit the amount of funds which may be committed to a program of dance instruction. The proposed bill would make void and unenforceable contracts for the life of the student and contracts which require the payment of a total consideration of more than five hundred dollars.

After completion of one contract, there is nothing in the bill which prohibits the negotiation for and signing of another. The effect of this bill will be, however, to protect the susceptible when in a weakened state of mind induced by vague romantic hopes from making a commitment which can obligate their entire future.

A BILL

FOR AN ACT RELATING TO INSTRUCTION  
IN SOCIAL TRAINING.

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

Section 1. [LIMITATIONS ON CERTAIN CONTRACTS FOR INSTRUCTION OR USE OF CERTAIN SOCIAL TRAINING FACILITIES.] Subdivision 1. [Contract for life invalid.] Any contract for instruction in social skills, or for the use by a patron of a dance hall, studio, ballroom, or other social training facility, which is measured by the life of the person receiving such instruction, or the use of such social training facility as a patron shall be deemed void and unenforceable as contrary to public policy.

Subd. 2. [Contracts for consideration greater than \$500.00 invalid.] Any contract or contracts for instruction in social skills, or for the use by a patron of a dance hall, studio, ballroom, or other social training facility which requires payment by the person receiving such instruction, or the use of such social training facility, of a total amount in excess of five hundred dollars, or granting to the person furnishing such instruction or providing the use of such facilities, an automatic renewal option where the payments to be made during the original contract period and the option period combined are in excess of five hundred dollars, shall be void in their inception and unenforceable.

Sec. 2. [INSTRUMENTS NOT TO BE TRANSFERRED WITHOUT CONSENT OF MAKER.] No contract for instruction in social skills or for the use by a patron of a dance hall, studio, ballroom, or other social training facility or instrument received in payment thereof, shall be negotiated or assigned without the separate written consent of the person receiving such instruction or the use of such social training facility.

Sec. 3. [APPLICATION.] Nothing herein shall be construed to apply to contracts for instruction at schools otherwise subject to regulation by the department of education.

Sec. 4. [EFFECTIVE DATE.] Sections 1 to 4 shall become effective July 1, 1963.

REFERRAL SELLING

From the records of the Attorney General and the Better Business Bureaus and Chambers of Commerce throughout the state, evidence was presented to the Council concerning the operation of various referral selling schemes in the state. During the past two years there have been a number of promoters of this type of selling in operation. They have sold items of merchandise ranging from motion picture cameras to built-in vacuum cleaners. Referral selling can be used to sell any item of merchandise. The system of referral selling works in the following manner:

The salesman calls upon the first prospect and tells him that he can purchase an item of merchandise, such as a camera, from the selling company. All he need do is to refer to the selling company the names of ten qualified buyers who will agree to listen to the entire sales pitch. If he does so, the camera is free to the prospect. The prospect is required to sign a conditional sales contract obligating him to pay the entire purchase price. The contract is then sold to a finance company. The finance company, of course, takes the position that it has no notice of the agreement by the seller to rebate upon the referral of prospects.

This system of selling has great advantages to the seller. First, it provides leads to additional sales. This is very important to any salesman; and there is nothing in this advantage to the seller that is contrary to the best interests of the purchaser. The other advantage to the seller, however, carries some serious implications. This advantage is that the seller has an easy means of closing the sale by telling the prospective purchaser that he can have the merchandise free or for a very small payment if he merely refers names to the seller. There are many problems which the buyer must overcome if he is ever to have the agreement to rebate honored. First, the plan may be so successful that every purchaser is able to refer ten names to the seller. In this case there is no money coming in to the seller to pay for the cost of goods sold, administrative expenses, etc. In other words, if the plan is successful, it will soon lead to the bankruptcy of the seller. This will inevitably lead to the inability of the seller to honor a large number of obligations he has to give rebates to those who purchased last. In other words, the pyramid builds up from one to hundreds of purchasers and the hundreds who purchased last are unable to collect from the seller because of the bankruptcy of the seller. The second pitfall awaiting the purchaser is the dishonest operation of this scheme by the seller. If he writes the contract carefully, he can insure that he is able to frustrate the ability of the purchaser to deliver the names. One seller required that 18 names be referred to him; and upon the reference of all 18, the entire purchase price would be refunded. If only a part of the 18 were referred, there would be no rebate. A 60-day time limit was written into the contract, and the purchaser was allowed to set up only two appointments per week. Thus, the purchaser, if he referred two appointments per week for the eight and a fraction weeks of the time limit, could just fulfill his obligation. If for some reason the seller was able to frustrate the conditions of the appointment agreement as to one of the referred purchasers, the original purchaser became obligated to pay the entire price and had no right to a rebate. This is quite easy to do. All the seller had to do was say that one of the appointments referred was not qualified from a credit standpoint or to say that there was a mixup in appointments and the salesman, although he called on the purchaser, found no one home at the time of the appointment.

There is another way of operating the referral selling system. The seller might promise his rebates only in the event that the purchaser is able to find a prospect who actually purchases the same item of merchandise. This method is also objection-



able, because the pyramid here can grow to the point where the seller is unable to deliver on the promises he has made to the last purchasers. For example, if an item of merchandise is sold for \$100 with the promise that if two additional purchasers are found by the original purchaser the \$100 purchase price will be refunded, the following can occur:

The first purchaser can find two additional purchasers and obtain his item of merchandise free. The next two purchasers can also find two additional purchasers and obtain their merchandise free and so on. If this occurs, the seller has no money coming in with which to pay his administrative expenses and with which to pay the cost of goods sold. Here, again, eventually bankruptcy must result and the seller must default with respect to the last purchasers.

Essentially, referral selling is a lottery scheme. The definition of a lottery, which is contained in Minnesota Statutes 614.01, follows:

"A lottery is a scheme for the distribution of property by chance among persons who have paid, or agreed to pay, a valuable consideration for the chance . . ."

With respect to referral selling, it is clear that there is a consideration. It is clear that there is a distribution of property contemplated by the payment of consideration, but it is not entirely clear that there is an element of chance involved in the distribution of that property.

It is the Council's conclusion, however, that an examination of the pitfalls awaiting the buyer which are discussed above shows that the buyer is taking a chance upon the success or failure of the seller in obtaining purchasers through a referral plan. If the seller is too successful, the scheme must end in failure through bankruptcy of the seller. This is a grave risk and has caused considerable harm to the citizens of this state. Therefore, it is the recommendation of the Council that Minnesota Statutes 614.01 be amended by the addition of a second subdivision which makes referral selling a lottery.

A BILL

FOR AN ACT RELATING TO THE PROHIBITION  
OF REFERRAL SELLING; AMENDING MINNESOTA  
STATUTES 1961, SECTION 614.01.

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

Section 1. Minnesota Statutes 1961, Section 614.01 is amended to read:

614.01 [~~LOTTERY, MISFEASANCE, DRAWING, HOW PUNISHED.~~]

Subdivision 1. [Defined, nuisance, how punished.] A lottery is a scheme for the distribution of property by chance among persons who have paid, or agreed to pay, a valuable consideration for the chance, whether it shall be called a lottery, raffle, gift enterprise, or by any other name, and is hereby declared unlawful and a public nuisance.

Every person who shall contrive, propose, or draw a lottery, or shall assist in contriving, proposing, or drawing a lottery, shall be punished by imprisonment in the state prison for not more than two years, or by a fine of not more than \$1,000, or by both.

Subd. 2. [Referral selling.] Every plan, scheme, device, or other means whereby a sale of goods, property, services, or other thing of value is induced in whole or in part by any statement or promise that the purchaser of such goods, property, services or other thing of value can earn or obtain payments in money, goods, or credit by obtaining, attempting to obtain, or suggesting the names of, additional purchasers of goods, property, services, or other thing of value, is a lottery.

GENERAL CONSUMER FRAUD BILL

The most important recommendation of the Attorney General's Consumer Protection Advisory Council is the bill which would, for the first time, give power to a state agency to seek swift and efficient redress in the courts against those who would employ deceit, fraud, misrepresentation and deceptive trade practices to distribute merchandise to the consuming public. The bill which is here recommended gives to the Attorney General, or his delegate, power to seek from the courts injunctive or other appropriate relief in order to stop the person engaging in deceptive selling.

It is recognized that this is not a new power, but, for the first time, it is specifically granted to the Attorney General by statute and is not dependent upon the grounds that the Attorney General has been forced to use in his previous actions in behalf of the consumer. Specifically, we refer to the invocation by the Attorney General of the public nuisance statute as a ground upon which he has based several common law actions to seek injunction against fraudulent selling. In a lower court the Attorney General was able to establish that the public nuisance statute was adequate groundwork for the issuance of an injunction against a large manufacturer and seller of furnaces. It is the opinion of the Attorney General, however, that only because the case was so elaborate and so many witnesses were presented and the fraudulent representations were so gross and consistently made in that case did the court agree that fraudulent representation to obtain a sale was a public nuisance. This case has not yet been considered by the Minnesota Supreme Court. The Attorney General is confident that, upon appeal, he can convince the court that the injunctive remedy granted by the lower court was soundly based upon the public nuisance statute. The Attorney General has pointed out, however, that in a less compelling case the courts might be reluctant to base injunctive relief upon the public nuisance statute. Therefore, it is the opinion of the Council and the request of the Attorney General that new and efficient statutory tools should be given to the Attorney General to seek and obtain relief by injunction against those who employ deceptive practices to sell their merchandise.

Some of the major changes made by the bill, as opposed to previous law, occur in the definition section, section 1 of the bill. In subdivision 2 of that section, "advertisement" is defined to include oral as well as written statements and solicitations to induce the purchase of merchandise. This differs from the false advertising statute, Minnesota Statutes 1961, Section 620.52, in that oral statements would be clearly covered by the recommended bill.

In subdivision 3, "merchandise" is defined to include not only items of personal property, but, in addition, services and real estate, as well as intangibles. This also gives broader coverage than previous Minnesota law.

In subdivision 5, "sale" is defined to mean not only an actual sale, but an offer to sell and an attempt to sell. One of the difficulties in establishing a violation of the public nuisance statute, based upon a defrauding of purchasers, is that traditional definitions of fraud require that damage actually has been done to a purchaser. This, of course, requires that the purchase be completed before fraud is complete. Therefore, the prosecution of the furnace case referred to previously required that actual completed transactions be introduced in evidence to establish the State's case. The difficulty with this was that when a transaction was completed, the furnace company attempted, in every case, to remove the evidence which would establish that a fraud had occurred. Evidence was available only in those cases where an attempt to sell was made and the prospective purchaser refused to buy, thus retaining the

evidence which demonstrated that the statements designed to induce the sale were false. Under the proposed bill misrepresentation made in an offer of sale or attempt to sell may be acted against whether or not the prospect buys.

Sections 3 through 6 of the bill give to the Attorney General powers of investigation preceding the undertaking of formal legal action. This power is necessary to an efficient and effective operation of a consumer protection unit. In many instances, the alleged offending party has possession of the only evidence which can confirm the deceptive practice used to sell merchandise to the consumer. The consumer can complain to the Attorney General, but cannot support his complaint with convincing evidence, if the seller preserves all such evidence in his own possession. Faced with this situation, the Attorney General either must refuse to proceed against the alleged offending party because of the lack of confirming evidence or must proceed upon the unsupported complaint of the consumer. Thus, without the investigative authority provided by the bill, either formal legal action must be taken prior to confirmation of the consumer's complaint or there will be no enforcement at all. Sections 3 through 6 of the bill give to the Attorney General the power to obtain information from the alleged offending party in order to determine whether the unsupported complaints of consumers have validity. If, upon investigation, the Attorney General determines that such complaints have validity, he then may institute formal action against the offending party.

Section 7 of the act provides that the Attorney General may seek, and the courts may grant, injunctive relief against the offending party, and such other relief as the court deems necessary, and further, that the court may appoint a receiver to receive the assets of the defendant.

In subdivision 2 of section 7, a special power is given to the Attorney General to apply, *ex parte*, to the court for an order appointing a receiver for a swift seizure of the assets of the defendant when it appears, and evidence is presented to the court, that the person has engaged in or is engaging in an unlawful practice as defined by the act and is about to conceal his assets or his person or to leave the state. The Council is aware of several tragic cases in which those who had engaged in such practices left the state taking with them all of their assets, leaving many unsatisfied customers with claims that they cannot press. This provision of the statute will rarely be invoked, but can save great tragedy in the small number of instances where it must be used. The receiver's disposition of the assets received is subject to the direction of the court under section 8.

Section 9 makes it clear that despite recovery through the receivership provisions of the act, consumers who have been victimized are not barred from seeking additional relief if they receive only a part of their funds through the receivership.

The Council recognizes that effective use of the powers created by the bill can only occur if adequate resources are provided for the Attorney General to provide the staff necessary for the administration of the bill. The Council has made no determination of the amount which will be required for effective administration, but the Council urges the legislature to provide the Attorney General with sufficient resources to meet the demands of enforcement which he foresees.

A BILL

FOR AN ACT RELATING TO THE  
PREVENTION OF CONSUMER FRAUD.

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

Section 1. [DEFINITIONS.] Subdivision 1. [Words and terms.] The following words and terms where used in this act shall have the meaning ascribed to them in this section.

Subd. 2. [Advertisement.] "Advertisement" includes the attempt by publication, dissemination, solicitation or circulation, oral or written, to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in any merchandise.

Subd. 3. [Merchandise.] "Merchandise" means any objects, wares, goods, commodities, intangibles, real estate or services.

Subd. 4. [Person.] "Person" means any natural person or his legal representative, partnership, corporation (domestic and foreign), company, trust, business entity, or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof.

Subd. 5. [Sale.] "Sale" means any sale, offer for sale, or attempt to sell any merchandise for any consideration.

Subd. 6. [Attorney general.] "Attorney general" means the attorney general of Minnesota or his authorized delegate.

Sec. 2. [UNLAWFUL PRACTICES.] Subdivision 1. [Fraud, misrepresentation.] The act, use or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice.

Subd. 2. [Advertising media excluded.] Nothing herein contained shall apply to the owner or publisher of newspapers, magazines, publication of printed matter wherein such advertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

Sec. 3. [POWERS OF ATTORNEY GENERAL.] When it appears to the attorney general that a person has engaged in, or is engaging in any practice declared to be unlawful by this act or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in, any such practice, he may:

(a) Require such person to file on such forms as he prescribes a statement or report in writing, under oath or otherwise, as to all the facts and circumstances concerning the sale or advertisement of merchandise by such person, and such other data and information as he may deem necessary;

(b) Examine under oath any person in connection with the sale or advertisement of any merchandise;

(c) Examine any merchandise or sample thereof, record, book, document, account or paper as he may deem necessary;

(d) Pursuant to an order of a district court impound any record, book, document, account, paper, or sample of merchandise material to such practice and retain the same in his possession until the completion of all proceedings undertaken under this section or in the courts.

Sec. 4. [SUBPOENA, HEARING, RULES.] To accomplish the objectives and to carry out the duties prescribed by this act, the attorney general, in addition to other powers conferred upon him by this act, may issue subpoenas to any person, administer on oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, prescribe such forms and promulgate such rules and regulations as may be necessary, which rules and regulations shall have the force of law.

Sec. 5. [SERVICE.] Service by the attorney general of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made personally within this state, but if such cannot be obtained, substituted service therefor may be made in the following manner:

(a) Personal service thereof without this state; or

(b) The mailing thereof by registered mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or

(c) As to any person other than a natural person, in the manner provided in the Minnesota Rules of Civil Procedure; or

(d) Such service as a district court may direct in lieu of personal service within this state.

Sec. 6. [FAILURE TO SUPPLY INFORMATION OR OBEY SUBPOENA.] If any person fails or refuses to file any statement or report, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to a district court and, after hearing thereon, request an order:

(a) Granting injunctive relief, restraining the sale or advertisement of any merchandise by such persons;

(b) Vacating, annulling, or suspending the corporate charter of a corporation created by or under the laws of this state or revoking or suspending the certificate of authority to do business in this state of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice;

(c) Granting such other relief as may be required; until the person files the statement or report or obeys the subpoena.

Sec. 7. [REMEDIES.] Subdivision 1. [Injunction, other relief.] Whenever it appears to the attorney general that a person has engaged in, or is engaging in any practice declared to be unlawful by this act, he may seek and obtain in an action in a district court an injunction prohibiting such person from continuing such practices or engaging therein or doing any acts in furtherance thereof after appropriate notice to such person. Such notice shall state generally the relief sought and be served in accordance with section 5 of this act at least ten days prior to the hearing of such action. The court may make such orders or judgments as may be necessary

to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any moneys, or property, real or personal, which may have been acquired by means of any practice in this act declared to be unlawful, including the appointment of a receiver.

Subd. 2. [Receiver appointed.] When it appears to the attorney general that a person has engaged in or is engaging in a practice declared to be unlawful by this act and that such person is about to conceal his assets or his person or leave the state, the attorney general may apply to the district court, ex parte, for an order appointing a receiver of the assets of such person. Upon a showing made by affidavit or other evidence that such person has engaged in or is engaging in a practice declared to be unlawful by this act and that such person is about to conceal his assets or his person or leave the state, the court shall order the appointment of a receiver to receive the assets of such person.

Sec. 8. [POWERS OF RECEIVER.] When a receiver is appointed by the court pursuant to this act, he shall have the power to sue for, collect, receive or take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description, derived by means of any practice declared to be unlawful by this act, including property with which such property has been mingled if it cannot be identified in kind because of such commingling, and to sell, convey, and assign the same and hold and dispose of the proceeds thereof under the direction of the court. Any person who has suffered damages as a result of the use or employment of any unlawful practices and submits proof to the satisfaction of the court that he has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent he has sustained out-of-pocket losses. The court shall have jurisdiction of all questions arising in such proceedings and may make such orders and judgments therein as may be required.

Sec. 9. [CLAIMS NOT BARRED.] The provisions of this act shall not bar any claim against any person who has acquired any moneys or property, real or personal, by means of any practice herein declared to be unlawful.

Sec. 10. [COSTS RECOVERABLE.] In any action brought under the provisions of this act, the attorney general is entitled to recover costs for the use of the state.

## REAL ESTATE SUBDIVISIONS

A problem of increasing importance in recent years involves the sale to residents of this state of lots situated both within the state and in other states and countries. The typical example of the lots under consideration is the arid desert plot of ground that is staked off and called a lot situated somewhere in the Arizona or Nevada desert, miles from other communities and sold at a price which may run as high as 30 times the value of the land. The problem is not confined to this type of promotion however. Promoters also have sold swampland in Florida and jungle lands in Brazil with astounding ease.

The state of Minnesota has no law which regulates the sale of this type of real estate. Other states have some regulation. For example, California requires registration of certain information by those who would sell their subdivisions within the state of California. From their records we know that the sale of subdivided lands situated outside the state of California to residents of California is a \$100,000,000 annual business, and in the last three years the acreage registered for sale to California residents has increased thirty fold.

During the past two years there has been a substantial increase in inquiries and complaints concerning the sale of subdivided lands filed in the Consumer Protection Unit of the Attorney General's office and in the real estate division of the Securities Commission. Typically, the promoters of the sun country lots prey upon the citizens of the state who have retired and have a sum of money set aside for their support during their retirement years. If the funds available are small, being victimized by these promoters can be truly tragic.

There is another class of real estate promotion that is on the increase in Minnesota which the attached bill is designed to cover. Promoters in Minnesota, perhaps taking a lead from those in the southern states, have in the past few years begun to promote the sale of lots in the northern areas of Minnesota. Typically, these promoters send mailings both to residents of the state and to citizens of other states which describe in glowing terms the lots available and the future hopes for the development. The promoters avoid making any overt representation, but through skillful use of language, leave the impression that the lots available are lakeshore lots and that substantial improvements have been or will be made.

The Attorney General's office learned recently that a group of promoters from Arizona were negotiating for the purchase of some 50,000 acres of land in Aitkin County at a price of about \$2.70 per acre. This land is, for the most part, marginal peat land. It is true that there is some lakeshore included in the land purchased. An investigation by the Attorney General disclosed very little. The promoters of the development were questioned, but would reveal nothing with respect to their plans for the area. It is certainly not proper to presume that the land in question will be sold fraudulently. It is felt, however, that the state of Minnesota should have some control over the method of sale used by the promoters of such a large operation not only to prevent possible injury to the purchaser, but also to preserve the reputation of the state.

The Attorney General's Consumer Protection Advisory Council recommends as a solution to this problem the passage of the attached bill. The bill requires registration with the Commissioner of Securities prior to the commencement of sale within the state of property situated outside the state. Further, the bill requires registration prior to sale of property situated within the state when sold either within or without the state.



Registration, when required, can be obtained only after submission of all facts required by the Commissioner of Securities pertaining to the land to be sold. Further, the Commissioner of Securities has investigative powers by which he can obtain additional information and check that submitted by the promoter. After completion of investigation, the Commissioner files a public report which then acts in the nature of a prospectus. The promoter is required to give to prospective purchasers a copy of the public report prior to the signing of any agreement of purchase. Agents of the promoter are required to be registered and registration may be revoked, after hearing, upon a finding that they have used misrepresentation in the sale of lots.

Certain persons and certain interests in real estate are exempt from the application of the bill, since there already exists adequate regulation of them.

There are several additional exemptions that might be included in the statute, if it is the feeling of the legislature after hearings that regulation is not needed in these areas. First, subdividers who sell substantially improved property i.e., with houses already built on the lots being sold, sell to buyers who because of the large commitment being made will usually inspect the offered property thoroughly and thereby fully inform themselves. Second, subdividers who sell unimproved lots in close proximity to urban areas usually sell to buyers in the immediate area who come to inspect the property. Such an exemption might, for example, exclude all subdivisions within fifteen miles of a city of the first class and within three miles of a city of the second class. These exemptions should probably be limited to Minnesota subdivisions if they are included in the legislation.

It is the opinion of the Council that passage of this legislation would go far to solve this growing problem. It is understood that there are still means by which promoters can get around the operation of the statute. If they can confine their solicitations to methods exempted by the federal constitution from state jurisdiction, they can avoid the effect of the act. This is a federal constitutional problem that cannot be solved by the state. The ultimate solution is for federal legislation similar to the bill which we now propose.

A BILL

FOR AN ACT RELATING TO THE REGISTRATION  
OF OFFERINGS OF SUBDIVIDED REAL ESTATE.

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

Section 1. [DEFINITIONS.] Subdivision 1. For the purposes of this act the terms defined in this section have the meanings ascribed to them.

Subd. 2. [Commissioner.] "Commissioner" means the commissioner of securities of the state of Minnesota or his authorized delegate.

Subd. 3. [Person.] "Person" includes a firm, a partnership, an association, a corporation, a trust, or estate.

Subd. 4. [Subdivision.] "Subdivision" means improved or unimproved lands divided or proposed to be divided for the purpose of sale or lease, into five or more lots or parcels.

Subd. 5. [Agent.] "Agent" means a person who acts as an agent, solicitor, broker, salesman, independent contractor, owner or another aiding in the sale, offer for sale, or attempt to sell lands within a subdivision.

Subd. 6. [Blanket encumbrance.] "Blanket encumbrance" means a trust deed or mortgage or any other lien or encumbrance, securing or evidencing a debt, and affecting land to be subdivided or more than one lot in a subdivision, or an agreement by which an owner or subdivider holds such land, lots, or subdivision under an option, contract for deed, purchase agreement, or trust agreement. Taxes and assessments levied by a public authority shall not be included in "blanket encumbrance."

Sec. 2. [EXCEPTIONS.] Subdivision 1. [Persons.] This act does not apply to persons acting:

(a) As an actual bona fide owner of real estate, selling for his own account in a single transaction and not in repeated or successive transactions;

(b) As an attorney at law, attorney in fact, or under an order of court;

(c) As an owner, operator, officer, or employee of a cemetery, selling lots therein solely for use as burial plots;

(d) As an auctioneer bonded in conformance with Minnesota Statutes 1961, Section 330.02, and such auctioneer may engage in the sale of real estate incidental to his work as an auctioneer.

Subd. 2. [Transactions.] This act does not apply to:

(a) Evidences of indebtedness secured by a mortgage on real estate;

(b) Securities issued by a bank or title guarantee trust company as trustee or co-trustee;

(c) Securities issued by a regulated real estate investment trust.

Sec. 3. Subdivision 1. [Registration required.] No interest in any subdivision or lots or parcels therein shall be offered for sale or for lease or sold or leased unless such subdivision has been registered pursuant to this act.

Subd. 2. [How registered.] Application for registration shall be made to the commissioner on forms prescribed by him. The application shall contain the following information:

- (a) The name and address of the owner;
- (b) The name and address of the subdivider;
- (c) The legal description and total area of the subdivision proposed for registration, together with a map showing the division proposed, topography, and relation to existing streets and roads;
- (d) A true statement of the condition of the title to the land, including all encumbrances thereon;
- (e) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of all forms of conveyance to be used;
- (f) A true statement of the present condition of legal access, sewage disposal facilities, and public utilities in the proposed subdivision, including water, electricity, gas, and telephone facilities;
- (g) Such other information as the applicant may wish to submit.

Subd. 3. [Additional information.] The commissioner may require the submission of additional information prior to approval of the application for registration and in investigating the proposed subdivision, may:

- (a) Use and rely upon any information obtained from any federal or state agency when such information pertains to the subdivision described in the application for registration or to the persons making such application;
- (b) Require reports prepared by competent authorities as to any hazard to which the subdivision may be subject or any factor which might affect the value or utility of lots or parcels within the subdivision;
- (c) Require evidence of compliance with the requirements of appropriate authorities;
- (d) Require an inspection of the subdivision to be made by his delegate. The applicant shall pay to the commissioner an amount equal to the actual cost of the inspection, including costs of travel, meals, and lodging.

Subd. 4. [Fees and term of registration.]

- (a) An application for initial registration shall be accompanied by a filing fee of \$25.00.
- (b) All registrations shall expire on December 31 of each year. Each application for renewal shall be accompanied by a fee of \$10.00.
- (c) All fees collected by the commissioner under this act shall be retained by him for the administration of this act.

(d) Each renewal application shall contain all information contained in an initial application, and the commissioner may refuse to issue a renewal registration for the same reasons he might refuse to issue an initial registration. Application for renewal of registration shall be made on or before December 1 of each calendar year.

Sec. 4. [PUBLIC REPORT.] Subdivision 1. [Content, waiver.] The commissioner shall prepare and file in his office a public report concerning the subdivision for which application for registration is made. The public report shall contain all information gathered by the commissioner under section 3 which the commissioner considers necessary to inform prospective purchasers fully. The commissioner may waive the requirement that a public report be filed. Such waiver shall be in writing and filed in the office of the commissioner.

Subd. 2. [Unlawful sales.] No lot or parcel of subdivided lands shall be sold or leased or offered for sale or lease before the filing of a public report or a waiver thereof.

Subd. 3. [Furnish copy.] If the commissioner has not waived the filing of a public report, each prospective purchaser or lessee of lands within a subdivision shall be furnished with a copy of the public report before the execution of a contract or agreement for the sale or lease of any lot or parcel within any subdivision.

Subd. 4. [Failure to furnish copy.] Failure to furnish a purchaser or lessee of lands within a subdivision with a copy of the public report pertaining thereto is a violation of this act, and any contract or agreement for the purchase or lease of such lands may be treated as void by such purchaser or lessee.

Subd. 5. [Use in advertising.] No public report shall be used in any advertisement, oral or written, unless it is used in its entirety, without partial change in emphasis or partial change in style or size of type.

Sec. 5. [Blanket encumbrance.] Subdivision 1. No owner, subdivider, or agent of an owner or subdivider shall sell or lease any lot or parcel within a subdivision against which there is a blanket encumbrance unless one of the following conditions is complied with:

(a) All consideration paid by purchasers or lessees are deposited with an escrow agent or other depository acceptable to the commissioner until the interest contracted for is delivered to such purchaser by valid instrument together with a release from any blanket encumbrance or until a party to any agreement for purchase or lease defaults on such agreement and a determination is made as to the disposition of such consideration;

(b) A bond guaranteeing the release of such blanket encumbrance to the state of Minnesota is furnished to the commissioner for the benefit of purchasers or lessees of lots within the subdivision. The commissioner shall set the amount and terms of such bond.

Subd. 2. [Public report.] The public report, when issued, shall state the method by which subdivision 1 of this section will be complied with.

Sec. 6. [ADVERTISEMENT.] No circular prospectus, advertisement, printed matter, document, pamphlet, leaflet or other matter (hereinafter referred to as advertising matter) containing or constituting an offer to sell any subdivision or lands therein required to be registered in compliance with the provisions of this act or rendering advice with relation thereto, shall be published, circulated, distributed or caused

to be published, circulated or distributed in any manner, unless and until such advertising matter shall have been submitted in duplicate to the commissioner and approved by him. The commissioner shall have power to disapprove any such advertising matter which he deems in conflict with the purposes of this act.

All such advertising matter shall carry the name and address of the owner, subdivider or agent circulating, publishing or distributing the same and make no reference to the registration of the subdivision.

Sec. 7. [APPLICATION.] Subdivision 1. [Land outside state.] Compliance with the provisions of this act shall be required of all persons owning or acting in behalf of owners of any subdivision located outside the boundaries of the state of Minnesota and who sell, offer for sale or attempt to sell lots or parcels within such subdivision to residents of the state of Minnesota.

Subd. 2. [Land within state.] Owners or subdividers of any subdivision located within the state or agents acting in behalf of such owners or subdividers shall comply with the provisions of this act before any sale, attempt to sell or offer for sale of lands within such subdivision.

Subd. 3. [Action in rem.] Penalties established by the provisions of this act may be collected against property, real, personal, or mixed, located within this state by levy of execution, attachment, and garnishment. The commissioner may authorize the filing of a notice of lis pendens with respect to any action taken by him for the collection of penalties.

Sec. 8. [PERMITS FOR AGENTS.] Subdivision 1. [Required.] An agent representing an owner or subdivider subject to the provisions of this act shall obtain an agent's permit by application to the commissioner before selling or offering for sale any lot or parcel of a subdivision.

Subd. 2. [Application for permit.] The application for such permit shall state the full name, address, and age of the applicant with such other information as the commissioner may require. Every permit shall expire on December 31 following the date of issuance. Application for renewal of permit shall be made on or before December 1 of each calendar year.

Subd. 3. [Refusal of permit.] No permit shall be issued unless:

(a) The applicant first files with the commissioner a surety bond to the state of Minnesota in such sum as the commissioner shall require but not less than the sum of \$1,000. The bond shall be conditioned for the faithful performance of all contracts and agreements and for compliance with the provisions of this act;

(b) The commissioner is satisfied that the applicant is of honest and of moral character.

Subd. 4. [Fee.] The initial and renewal applications for a permit shall be accompanied by a fee of \$10.00.

Sec. 9. [RULES AND REGULATIONS.] The commissioner shall make and enforce reasonable rules and regulations to carry out the intent and purposes of this act. Such rules and regulations shall be adopted according to the procedures provided by Minnesota Statutes 1961, Chapter 15, the Minnesota Administrative Procedures Act.

Sec. 10. [FALSE STATEMENT.] No owner, subdivider or agent shall advertise falsely or misrepresent in any manner to any person any matter material to land sold or offered for sale.

Sec. 11. [REFUSAL OR REVOCATION OF REGISTRATION OR PERMIT.] Subdivision 1. [Grounds.] The commissioner may refuse to issue, to allow or to renew or may revoke any registration or agent's permit upon any one or any combination of the following grounds:

- (a) Willful violation of any provision of this act;
- (b) Furnishing to the commissioner any false, misleading, or incomplete information;
- (c) Presenting to prospective purchasers of lots or parcels within a subdivision false, fraudulent, or misleading information;
- (d) The existence of any circumstance which would be grounds for refusal of an initial or renewal registration or permit.

Subd. 2. [Notice and hearing.] Such refusal to issue or to renew or such revocation of a registration or agent's permit shall be ordered only after notice and hearing.

Subd. 3. [Appeal.] An order refusing or revoking a registration or agent's permit is appealable to the district court within 30 days after notice thereof to the holder of, or applicant for, registration or permit upon the following grounds:

- (a) That the commissioner abused his discretion in making such order;
- (b) That the commissioner's order is arbitrary, capricious, or unreasonable;
- (c) That the commissioner's order is not based on substantial evidence.

Subd. 4. [No trial de novo.] The district court shall review the order of the commissioner considering only the evidence presented to the commissioner and shall not determine the issues upon a trial de novo.

Sec. 12. [INSPECTION.] The commissioner or his delegate may inspect the books and records, plats, plans, advertising material, and land of any owner, subdivider or agent who has registered a subdivision under this act. The commissioner may require the submission of such information as he deems necessary at any time.

Sec. 13. [INJUNCTION.] Subdivision 1. Upon application of the commissioner the district court shall have jurisdiction to enjoin any violation of this act.

Subd. 2. Each day of continued violation of an order enjoining any conduct in violation of this act shall constitute a separate violation subject to penalty of \$1,000 per violation.

Sec. 14. [GROSS MISDEMEANOR.] Violation of any provision of this act shall be a gross misdemeanor, punishable by a fine not exceeding \$500, or by imprisonment for a period not exceeding one year, or both.

Sec. 15. [CIVIL PENALTY.] The commissioner may bring a civil action in the district court in personam or in rem to collect a penalty of not more than \$1,000 per violation of any rule or regulation of the commissioner or any provision of this act.

Sec. 16. [EFFECTIVE DATE.] This act shall be effective July 1, 1963.

PERMANENT CONSUMER PROTECTION ADVISORY COUNCIL

Although a draft bill is not being submitted concerning this final proposal, it seems to the members of this informally created Consumer Protection Advisory Council that the legislature should consider the creation of a permanent body to keep watch of legislative problems relating to consumer protection to advise the legislative and executive branches of government.

Such a group should be composed of from fifteen to twenty members so that a cross-section of social interests can be represented. The membership should be divided politically and socially as much as possible. Terms should be staggered and appointment should be by the Attorney General or Governor.

The council's duties, in addition to that of formulating legislative recommendations, as is done herewith, should include advising the Governor and Attorney General concerning methods for combatting and solutions to consumer problems. It is believed that agencies of the state government which deal with consumer problems, such as Railroad and Warehouse Commission, Securities Commission, Department of Agriculture and others can be aided by the establishment of a liaison such as the proposed council between them and the consumer.

Consumer interests are usually nebulous enough to escape forceful statement to responsible officials. An official council charged with responsibility to find and present the consumer's viewpoint can create a closer bond between the people and government and thus aid in the smooth working of a democratic society.