

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 1846

(SENATE AUTHORS: DAHMS)

DATE	D-PG	OFFICIAL STATUS
03/08/2021	723	Introduction and first reading Referred to Commerce and Consumer Protection Finance and Policy
03/11/2021	835a	Comm report: To pass as amended
	837	Second reading
04/19/2021	2962a	Special Order: Amended
	2991	Third reading Passed See First Special Session 2021, HF6, Art. 3, Sec. 3-14, 17-26, 28-29

1.1 A bill for an act

1.2 relating to commerce; modifying various provisions governing or administered

1.3 by the Department of Commerce; modifying allowance of reinsurance credit;

1.4 establishing an insurance data security law; making technical changes; requiring

1.5 a report; amending Minnesota Statutes 2020, sections 60A.092, subdivision 10a,

1.6 by adding a subdivision; 60A.0921, subdivision 2; 60A.71, subdivision 7; 61A.245,

1.7 subdivision 4; 79.55, subdivision 10; 79.61, subdivision 1; 80G.06, subdivision

1.8 1; 82.57, subdivisions 1, 5; 82.62, subdivision 3; 82.81, subdivision 12; 82B.021,

1.9 subdivision 18; 82B.11, subdivision 3; 332.33, subdivision 3, by adding a

1.10 subdivision; 386.375, subdivision 3; proposing coding for new law in Minnesota

1.11 Statutes, chapters 60A; 80G; 332; repealing Minnesota Statutes 2020, sections

1.12 45.017; 60A.98; 60A.981; 60A.982.

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

1.14 Section 1. Minnesota Statutes 2020, section 60A.092, subdivision 10a, is amended to read:

1.15 Subd. 10a. **Other jurisdictions.** The reinsurance is ceded and credit allowed to an

1.16 assuming insurer not meeting the requirements of subdivision 2, 3, 4, 5, ~~or 10~~, or 10b, but

1.17 only with respect to the insurance of risks located in jurisdictions where the reinsurance is

1.18 required by applicable law or regulation of that jurisdiction.

1.19 Sec. 2. Minnesota Statutes 2020, section 60A.092, is amended by adding a subdivision to

1.20 read:

1.21 Subd. 10b. **Credit allowed; reciprocal jurisdiction.** (a) Credit shall be allowed when

1.22 the reinsurance is ceded to an assuming insurer meeting each of the following conditions:

1.23 (1) the assuming insurer must have its head office in or be domiciled in, as applicable,

1.24 and be licensed in a reciprocal jurisdiction. A "reciprocal jurisdiction" means a jurisdiction

1.25 that is:

2.1 (i) a non-United States jurisdiction that is subject to an in-force covered agreement with
2.2 the United States, each within its legal authority, or, in the case of a covered agreement
2.3 between the United States and the European Union, is a member state of the European
2.4 Union. For purposes of this subdivision, a "covered agreement" means an agreement entered
2.5 into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, United
2.6 States Code, title 31, sections 313 and 314, that is currently in effect or in a period of
2.7 provisional application and addresses the elimination, under specified conditions, of collateral
2.8 requirements as a condition for entering into any reinsurance agreement with a ceding insurer
2.9 domiciled in Minnesota or for allowing the ceding insurer to recognize credit for reinsurance;

2.10 (ii) a United States jurisdiction that meets the requirements for accreditation under the
2.11 National Association of Insurance Commissioners (NAIC) financial standards and
2.12 accreditation program; or

2.13 (iii) a qualified jurisdiction, as determined by the commissioner, which is not otherwise
2.14 described in item (i) or (ii) and which meets the following additional requirements, consistent
2.15 with the terms and conditions of in-force covered agreements:

2.16 (A) provides that an insurer which has its head office or is domiciled in such qualified
2.17 jurisdiction shall receive credit for reinsurance ceded to a United States-domiciled assuming
2.18 insurer in the same manner as credit for reinsurance is received for reinsurance assumed by
2.19 insurers domiciled in such qualified jurisdiction;

2.20 (B) does not require a United States-domiciled assuming insurer to establish or maintain
2.21 a local presence as a condition for entering into a reinsurance agreement with any ceding
2.22 insurer subject to regulation by the non-United States jurisdiction or as a condition to allow
2.23 the ceding insurer to recognize credit for such reinsurance;

2.24 (C) recognizes the United States state regulatory approach to group supervision and
2.25 group capital, by providing written confirmation by a competent regulatory authority, in
2.26 such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain
2.27 their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject
2.28 only to worldwide prudential insurance group supervision including worldwide group
2.29 governance, solvency and capital, and reporting, as applicable, by the commissioner or the
2.30 commissioner of the domiciliary state and will not be subject to group supervision at the
2.31 level of the worldwide parent undertaking of the insurance or reinsurance group by the
2.32 qualified jurisdiction; and

2.33 (D) provides written confirmation by a competent regulatory authority in such qualified
2.34 jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated

3.1 entities, if applicable, shall be provided to the commissioner in accordance with a
3.2 memorandum of understanding or similar document between the commissioner and such
3.3 qualified jurisdiction, including but not limited to the International Association of Insurance
3.4 Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda
3.5 of understanding coordinated by the NAIC;

3.6 (2) the assuming insurer must have and maintain, on an ongoing basis, minimum capital
3.7 and surplus, or its equivalent, calculated according to the methodology of its domiciliary
3.8 jurisdiction, on at least an annual basis as of the preceding December 31 or on the date
3.9 otherwise statutorily reported to the reciprocal jurisdiction, in the following amounts:

3.10 (i) no less than \$250,000,000; or

3.11 (ii) if the assuming insurer is an association, including incorporated and individual
3.12 unincorporated underwriters:

3.13 (A) minimum capital and surplus equivalents, net of liabilities, or own funds of the
3.14 equivalent of at least \$250,000,000; and

3.15 (B) a central fund containing a balance of the equivalent of at least \$250,000,000;

3.16 (3) the assuming insurer must have and maintain, on an ongoing basis, a minimum
3.17 solvency or capital ratio, as applicable, as follows:

3.18 (i) if the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction
3.19 defined in clause (1), item (i), the ratio specified in the applicable covered agreement;

3.20 (ii) if the assuming insurer is domiciled in a reciprocal jurisdiction defined in clause (1),
3.21 item (ii), a risk-based capital ratio of 300 percent of the authorized control level, calculated
3.22 in accordance with the formula developed by the NAIC; or

3.23 (iii) if the assuming insurer is domiciled in a Reciprocal Jurisdiction defined in clause
3.24 (1), item (iii), after consultation with the reciprocal jurisdiction and considering any
3.25 recommendations published through the NAIC Committee Process, such solvency or capital
3.26 ratio as the commissioner determines to be an effective measure of solvency;

3.27 (4) the assuming insurer must agree and provide adequate assurance in the form of a
3.28 properly executed Form AR-1, Form CR-1, and Form RJ-1 of its agreement to the following:

3.29 (i) the assuming insurer must provide prompt written notice and explanation to the
3.30 commissioner if it falls below the minimum requirements set forth in clause (2) or (3), or
3.31 if any regulatory action is taken against the assuming insurer for serious noncompliance
3.32 with applicable law;

4.1 (ii) the assuming insurer must consent in writing to the jurisdiction of the courts of
4.2 Minnesota and to the appointment of the commissioner as agent for service of process. The
4.3 commissioner may require that consent for service of process be provided to the
4.4 commissioner and included in each reinsurance agreement. Nothing in this subdivision shall
4.5 limit or in any way alter the capacity of parties to a reinsurance agreement to agree to
4.6 alternative dispute resolution mechanisms, except to the extent such agreements are
4.7 unenforceable under applicable insolvency or delinquency laws;

4.8 (iii) the assuming insurer must consent in writing to pay all final judgments, wherever
4.9 enforcement is sought, obtained by a ceding insurer or its legal successor, that have been
4.10 declared enforceable in the jurisdiction where the judgment was obtained;

4.11 (iv) each reinsurance agreement must include a provision requiring the assuming insurer
4.12 to provide security in an amount equal to 100 percent of the assuming insurer's liabilities
4.13 attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists
4.14 enforcement of a final judgment that is enforceable under the law of the jurisdiction in which
4.15 it was obtained or a properly enforceable arbitration award, whether obtained by the ceding
4.16 insurer or by its legal successor on behalf of its resolution estate;

4.17 (v) the assuming insurer must confirm that it is not presently participating in any solvent
4.18 scheme of arrangement which involves this state's ceding insurers, and agree to notify the
4.19 ceding insurer and the commissioner and to provide security in an amount equal to 100
4.20 percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer
4.21 enter into such a solvent scheme of arrangement. The security shall be in a form consistent
4.22 with sections 60A.092, subdivision 10, 60A.093, 60A.096, and 60A.097. For purposes of
4.23 this regulation, the term "solvent scheme of arrangement" means a foreign or alien statutory
4.24 or regulatory compromise procedure subject to requisite majority creditor approval and
4.25 judicial sanction in the assuming insurer's home jurisdiction either to finally commute
4.26 liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize
4.27 or restructure the debts and obligations of a solvent debtor on a final basis, and which may
4.28 be subject to judicial recognition and enforcement of the arrangement by a governing
4.29 authority outside the ceding insurer's home jurisdiction; and

4.30 (vi) the assuming insurer must agree in writing to meet the applicable information filing
4.31 requirements set forth in clause (5);

4.32 (5) the assuming insurer or its legal successor must provide, if requested by the
4.33 commissioner, on behalf of itself and any legal predecessors, the following documentation
4.34 to the commissioner:

5.1 (i) for the two years preceding entry into the reinsurance agreement and on an annual
5.2 basis thereafter, the assuming insurer's annual audited financial statements, in accordance
5.3 with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as
5.4 applicable, including the external audit report;

5.5 (ii) for the two years preceding entry into the reinsurance agreement, the solvency and
5.6 financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;

5.7 (iii) prior to entry into the reinsurance agreement and not more than semiannually
5.8 thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for
5.9 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the
5.10 United States; and

5.11 (iv) prior to entry into the reinsurance agreement and not more than semiannually
5.12 thereafter, information regarding the assuming insurer's assumed reinsurance by ceding
5.13 insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid
5.14 and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth
5.15 in clause (6);

5.16 (6) the assuming insurer must maintain a practice of prompt payment of claims under
5.17 reinsurance agreements. The lack of prompt payment will be evidenced if any of the
5.18 following criteria is met:

5.19 (i) more than 15 percent of the reinsurance recoverables from the assuming insurer are
5.20 overdue and in dispute as reported to the commissioner;

5.21 (ii) more than 15 percent of the assuming insurer's ceding insurers or reinsurers have
5.22 overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute
5.23 and which exceed for each ceding insurer \$100,000, or as otherwise specified in a covered
5.24 agreement; or

5.25 (iii) the aggregate amount of reinsurance recoverable on paid losses which are not in
5.26 dispute, but are overdue by 90 days or more, exceeds \$50,000,000, or as otherwise specified
5.27 in a covered agreement;

5.28 (7) the assuming insurer's supervisory authority must confirm to the commissioner by
5.29 December 31, 2021, and annually thereafter, or at the annual date otherwise statutorily
5.30 reported to the reciprocal jurisdiction, that the assuming insurer complies with the
5.31 requirements set forth in clauses (2) and (3); and

5.32 (8) nothing in this subdivision precludes an assuming insurer from providing the
5.33 commissioner with information on a voluntary basis.

6.1 (b) The commissioner shall timely create and publish a list of reciprocal jurisdictions.
6.2 The commissioner's list shall include any reciprocal jurisdiction as defined under paragraph
6.3 (a), clause (1), items (i) and (ii), and shall consider any other reciprocal jurisdiction included
6.4 on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the
6.5 NAIC list of reciprocal jurisdictions in accordance with criteria developed under rules issued
6.6 by the commissioner. The commissioner may remove a jurisdiction from the list of reciprocal
6.7 jurisdictions upon a determination that the jurisdiction no longer meets the requirements of
6.8 a reciprocal jurisdiction, in accordance with a process set forth in rules issued by the
6.9 commissioner, except that the commissioner shall not remove from the list a reciprocal
6.10 jurisdiction as defined under paragraph (a), clause (1), items (i) and (ii). Upon removal of
6.11 a reciprocal jurisdiction from the list, credit for reinsurance ceded to an assuming insurer
6.12 which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise
6.13 allowed pursuant to law.

6.14 (c) The commissioner shall timely create and publish a list of assuming insurers that
6.15 have satisfied the conditions set forth in this subdivision and to which cessions shall be
6.16 granted credit in accordance with this subdivision. The commissioner may add an assuming
6.17 insurer to the list if an NAIC accredited jurisdiction has added the assuming insurer to a list
6.18 of assuming insurers or if, upon initial eligibility, the assuming insurer submits the
6.19 information to the commissioner as required under paragraph (a), clause (4), and complies
6.20 with any additional requirements that the commissioner may impose by rule, except to the
6.21 extent that they conflict with an applicable covered agreement.

6.22 (1) If an NAIC-accredited jurisdiction has determined that the conditions set forth in
6.23 paragraph (a), clause (2), have been met, the commissioner has the discretion to defer to
6.24 that jurisdiction's determination, and add such assuming insurer to the list of assuming
6.25 insurers to which cessions shall be granted credit in accordance with this paragraph. The
6.26 commissioner may accept financial documentation filed with another NAIC-accredited
6.27 jurisdiction or with the NAIC in satisfaction of the requirements of paragraph (a), clause
6.28 (2).

6.29 (2) When requesting that the commissioner defer to another NAIC-accredited
6.30 jurisdiction's determination, an assuming insurer must submit a properly executed Form
6.31 RJ-1 and additional information as the commissioner may require. A state that has received
6.32 such a request will notify other states through the NAIC Committee Process and provide
6.33 relevant information with respect to the determination of eligibility.

6.34 (d) If the commissioner determines that an assuming insurer no longer meets one or
6.35 more of the requirements under this subdivision, the commissioner may revoke or suspend

7.1 the eligibility of the assuming insurer for recognition under this subdivision in accordance
7.2 with procedures set forth in rule. While an assuming insurer's eligibility is suspended, no
7.3 reinsurance agreement issued, amended, or renewed after the effective date of the suspension
7.4 qualifies for credit, except to the extent that the assuming insurer's obligations under the
7.5 contract are secured in accordance with this section. If an assuming insurer's eligibility is
7.6 revoked, no credit for reinsurance may be granted after the effective date of the revocation
7.7 with respect to any reinsurance agreements entered into by the assuming insurer, including
7.8 reinsurance agreements entered into prior to the date of revocation, except to the extent that
7.9 the assuming insurer's obligations under the contract are secured in a form acceptable to
7.10 the commissioner and consistent with the provisions of this section.

7.11 (e) Before denying statement credit or imposing a requirement to post security with
7.12 respect to paragraph (d) or adopting any similar requirement that will have substantially the
7.13 same regulatory impact as security, the commissioner shall:

7.14 (1) communicate with the ceding insurer, the assuming insurer, and the assuming insurer's
7.15 supervisory authority that the assuming insurer no longer satisfies one of the conditions
7.16 listed in paragraph (a), clause (2);

7.17 (2) provide the assuming insurer with 30 days from the initial communication to submit
7.18 a plan to remedy the defect, and 90 days from the initial communication to remedy the
7.19 defect, except in exceptional circumstances in which a shorter period is necessary for
7.20 policyholder and other consumer protection;

7.21 (3) after the expiration of 90 days or less, as set out in clause (2), if the commissioner
7.22 determines that no or insufficient action was taken by the assuming insurer, the commissioner
7.23 may impose any of the requirements as set out in this paragraph; and

7.24 (4) provide a written explanation to the assuming insurer of any of the requirements set
7.25 out in this paragraph.

7.26 (f) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable,
7.27 the ceding insurer, or its representative, may seek and, if determined appropriate by the
7.28 court in which the proceedings are pending, may obtain an order requiring that the assuming
7.29 insurer post security for all outstanding ceded liabilities.

7.30 (g) Nothing in this subdivision limits or in any way alters the capacity of parties to a
7.31 reinsurance agreement to agree on requirements for security or other terms in the reinsurance
7.32 agreement, except as expressly prohibited by applicable law or rule.

8.1 (h) Credit may be taken under this subdivision only for reinsurance agreements entered
8.2 into, amended, or renewed on or after the effective date of this subdivision, and only with
8.3 respect to losses incurred and reserves reported on or after the later of: (1) the date on which
8.4 the assuming insurer has met all eligibility requirements pursuant to this subdivision; and
8.5 (2) the effective date of the new reinsurance agreement, amendment, or renewal. This
8.6 paragraph does not alter or impair a ceding insurer's right to take credit for reinsurance, to
8.7 the extent that credit is not available under this subdivision, as long as the reinsurance
8.8 qualifies for credit under any other applicable provision of law. Nothing in this subdivision
8.9 shall authorize an assuming insurer to withdraw or reduce the security provided under any
8.10 reinsurance agreement, except as permitted by the terms of the agreement. Nothing in this
8.11 subdivision shall limit, or in any way alter, the capacity of parties to any reinsurance
8.12 agreement to renegotiate the agreement.

8.13 Sec. 3. Minnesota Statutes 2020, section 60A.0921, subdivision 2, is amended to read:

8.14 Subd. 2. **Certification procedure.** (a) The commissioner shall post notice on the
8.15 department's website promptly upon receipt of any application for certification, including
8.16 instructions on how members of the public may respond to the application. The commissioner
8.17 may not take final action on the application until at least 30 days after posting the notice.

8.18 (b) The commissioner shall issue written notice to an assuming insurer that has applied
8.19 and been approved as a certified reinsurer. The notice must include the rating assigned the
8.20 certified reinsurer in accordance with subdivision 1. The commissioner shall publish a list
8.21 of all certified reinsurers and their ratings.

8.22 (c) In order to be eligible for certification, the assuming insurer must:

8.23 (1) be domiciled and licensed to transact insurance or reinsurance in a qualified
8.24 jurisdiction, as determined by the commissioner under subdivision 3;

8.25 (2) maintain capital and surplus, or its equivalent, of no less than \$250,000,000 calculated
8.26 in accordance with paragraph (d), clause (8). This requirement may also be satisfied by an
8.27 association including incorporated and individual unincorporated underwriters having
8.28 minimum capital and surplus equivalents net of liabilities of at least \$250,000,000 and a
8.29 central fund containing a balance of at least \$250,000,000;

8.30 (3) maintain financial strength ratings from two or more rating agencies acceptable to
8.31 the commissioner. These ratings shall be based on interactive communication between the
8.32 rating agency and the assuming insurer and shall not be based solely on publicly available
8.33 information. These financial strength ratings shall be one factor used by the commissioner

9.1 in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies
9.2 include the following:

9.3 (i) Standard & Poor's;

9.4 (ii) Moody's Investors Service;

9.5 (iii) Fitch Ratings;

9.6 (iv) A.M. Best Company; or

9.7 (v) any other nationally recognized statistical rating organization; and

9.8 (4) ensure that the certified reinsurer complies with any other requirements reasonably
9.9 imposed by the commissioner.

9.10 (d) Each certified reinsurer shall be rated on a legal entity basis, with due consideration
9.11 being given to the group rating where appropriate, except that an association including
9.12 incorporated and individual unincorporated underwriters that has been approved to do
9.13 business as a single certified reinsurer may be evaluated on the basis of its group rating.
9.14 Factors that may be considered as part of the evaluation process include, but are not limited
9.15 to:

9.16 (1) certified reinsurer's financial strength rating from an acceptable rating agency. The
9.17 maximum rating that a certified reinsurer may be assigned will correspond to its financial
9.18 strength rating as outlined in the table below. The commissioner shall use the lowest financial
9.19 strength rating received from an approved rating agency in establishing the maximum rating
9.20 of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings
9.21 from acceptable rating agencies will result in loss of eligibility for certification;

9.22 Ratings	Best	S&P	Moody's	Fitch
9.23 Secure - 1	A++	AAA	Aaa	AAA
9.24 Secure - 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
9.25 Secure - 3	A	A+, A	A1, A2	A+, A
9.26 Secure - 4	A-	A-	A3	A-
9.27 Secure - 5	B++, B-	BBB+, BBB, 9.28 BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
9.29 Vulnerable - 6	B, B-C++, C+, C, 9.30 C-, D, E, F	BB+, BB, BB-, 9.31 B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

9.32 (2) the business practices of the certified reinsurer in dealing with its ceding insurers,
9.33 including its record of compliance with reinsurance contractual terms and obligations;

10.1 (3) for certified reinsurers domiciled in the United States, a review of the most recent
10.2 applicable NAIC annual statement;

10.3 (4) for certified reinsurers not domiciled in the United States, a review annually of such
10.4 forms as may be required by the commissioner;

10.5 (5) the reputation of the certified reinsurer for prompt payment of claims under
10.6 reinsurance agreements, based on an analysis of ceding insurers' reporting of overdue
10.7 reinsurance recoverables, including the proportion of obligations that are more than 90 days
10.8 past due or are in dispute, with specific attention given to obligations payable to companies
10.9 that are in administrative supervision or receivership;

10.10 (6) regulatory actions against the certified reinsurer;

10.11 (7) the report of the independent auditor on the financial statements of the insurance
10.12 enterprise, on the basis described in clause (8);

10.13 (8) for certified reinsurers not domiciled in the United States, audited financial statements
10.14 (audited United States GAAP basis if available, audited IFRS basis statements are allowed,
10.15 but must include an audited footnote reconciling equity and net income to a United States
10.16 GAAP basis, or, with permission of the commissioner, audited IFRS statements with
10.17 reconciliation to United States GAAP certified by an officer of the company). Upon the
10.18 initial application for certification, the commissioner will consider audited financial
10.19 statements for the last ~~three~~ two years filed with its non-United States jurisdiction supervisor;

10.20 (9) the liquidation priority of obligations to a ceding insurer in the certified reinsurer's
10.21 domiciliary jurisdiction in the context of an insolvency proceeding;

10.22 (10) a certified reinsurer's participation in any solvent scheme of arrangement, or similar
10.23 procedure, which involves United States ceding insurers. The commissioner must receive
10.24 prior notice from a certified reinsurer that proposes participation by the certified reinsurer
10.25 in a solvent scheme of arrangement; and

10.26 (11) other information as determined by the commissioner.

10.27 (e) Based on the analysis conducted under paragraph (d), clause (5), of a certified
10.28 reinsurer's reputation for prompt payment of claims, the commissioner may make appropriate
10.29 adjustments in the security the certified reinsurer is required to post to protect its liabilities
10.30 to United States ceding insurers, provided that the commissioner shall, at a minimum,
10.31 increase the security the certified reinsurer is required to post by one rating level under
10.32 paragraph (d), clause (1), if the commissioner finds that:

11.1 (1) more than 15 percent of the certified reinsurer's ceding insurance clients have overdue
11.2 reinsurance recoverables on paid losses of 90 days or more which are not in dispute and
11.3 which exceed \$100,000 for each cedent; or

11.4 (2) the aggregate amount of reinsurance recoverables on paid losses which are not in
11.5 dispute that are overdue by 90 days or more exceeds \$50,000,000.

11.6 (f) The assuming insurer must submit such forms as required by the commissioner as
11.7 evidence of its submission to the jurisdiction of this state, appoint the commissioner as an
11.8 agent for service of process in this state, and agree to provide security for 100 percent of
11.9 the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding
11.10 insurers if it resists enforcement of a final United States judgment. The commissioner shall
11.11 not certify an assuming insurer that is domiciled in a jurisdiction that the commissioner has
11.12 determined does not adequately and promptly enforce final United States judgments or
11.13 arbitration awards.

11.14 (g) The certified reinsurer must agree to meet filing requirements as determined by the
11.15 commissioner, both with respect to an initial application for certification and on an ongoing
11.16 basis. All data submitted by certified reinsurers to the commissioner is nonpublic under
11.17 section 13.02, subdivision 9. The certified reinsurer must file with the commissioner:

11.18 (1) a notification within ten days of any regulatory actions taken against the certified
11.19 reinsurer, any change in the provisions of its domiciliary license, or any change in rating
11.20 by an approved rating agency, including a statement describing such changes and the reasons
11.21 therefore;

11.22 (2) an annual report regarding reinsurance assumed, in a form determined by the
11.23 commissioner;

11.24 (3) an annual report of the independent auditor on the financial statements of the insurance
11.25 enterprise, on the basis described in clause (4);

11.26 (4) an annual audited financial statement, regulatory filings, and actuarial opinion filed
11.27 with the certified reinsurer's supervisor. Upon the initial certification, audited financial
11.28 statements for the last ~~three~~ two years filed with the certified reinsurer's supervisor;

11.29 (5) at least annually, an updated list of all disputed and overdue reinsurance claims
11.30 regarding reinsurance assumed from United States domestic ceding insurers;

11.31 (6) a certification from the certified reinsurer's domestic regulator that the certified
11.32 reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest
11.33 regulatory action level; and

12.1 (7) any other relevant information as determined by the commissioner.

12.2 Sec. 4. Minnesota Statutes 2020, section 60A.71, subdivision 7, is amended to read:

12.3 Subd. 7. **Duration; fees.** (a) Each applicant for a reinsurance intermediary license shall
12.4 pay to the commissioner a fee of \$200 for an initial two-year license and a fee of \$150 for
12.5 each renewal. Applications shall be submitted on forms prescribed by the commissioner.

12.6 (b) Initial licenses issued under this chapter are valid for a period not to exceed 24 months
12.7 and expire on October 31 of the renewal year assigned by the commissioner. Each renewal
12.8 reinsurance intermediary license is valid for a period of 24 months. ~~Licensees who submit
12.9 renewal applications postmarked or delivered on or before October 15 of the renewal year
12.10 may continue to transact business whether or not the renewal license has been received by
12.11 November 1. Licensees who submit applications postmarked or delivered after October 15
12.12 of the renewal year must not transact business after the expiration date of the license until
12.13 the renewal license has been received.~~

12.14 (c) All fees are nonreturnable, except that an overpayment of any fee may be refunded
12.15 upon proper application.

12.16 Sec. 5. **[60A.985] DEFINITIONS.**

12.17 Subdivision 1. **Terms.** As used in sections 60A.985 to 60A.9857, the following terms
12.18 have the meanings given.

12.19 Subd. 2. **Authorized individual.** "Authorized individual" means an individual known
12.20 to and screened by the licensee and determined to be necessary and appropriate to have
12.21 access to the nonpublic information held by the licensee and its information systems.

12.22 Subd. 3. **Consumer.** "Consumer" means an individual, including but not limited to an
12.23 applicant, policyholder, insured, beneficiary, claimant, and certificate holder who is a resident
12.24 of this state and whose nonpublic information is in a licensee's possession, custody, or
12.25 control.

12.26 Subd. 4. **Cybersecurity event.** "Cybersecurity event" means an event resulting in
12.27 unauthorized access to, service level or disruption or misuse of, an information system or
12.28 nonpublic information stored on an information system which results in the release of a
12.29 consumer's nonpublic information.

12.30 Cybersecurity event does not include the unauthorized acquisition of encrypted nonpublic
12.31 information if the encryption, process, or key is not also acquired, released, or used without
12.32 authorization.

13.1 Cybersecurity event does not include an event with regard to which the licensee has
 13.2 determined that the nonpublic information accessed by an unauthorized person has not been
 13.3 used or released and has been returned or destroyed.

13.4 Subd. 5. **Encrypted.** "Encrypted" means the transformation of data into a form which
 13.5 results in a low probability of assigning meaning without the use of a protective process or
 13.6 key.

13.7 Subd. 6. **Information security program.** "Information security program" means the
 13.8 administrative, technical, and physical safeguards that a licensee uses to access, collect,
 13.9 distribute, process, protect, store, use, transmit, dispose of, or otherwise handle nonpublic
 13.10 information.

13.11 Subd. 7. **Information system.** "Information system" means a discrete set of electronic
 13.12 information resources organized for the collection, processing, maintenance, use, sharing,
 13.13 dissemination, or disposition of nonpublic electronic information, as well as any specialized
 13.14 system such as industrial or process controls systems, telephone switching and private
 13.15 branch exchange systems, and environmental control systems.

13.16 Subd. 8. **Licensee.** "Licensee" means any person licensed, authorized to operate, or
 13.17 registered, or required to be licensed, authorized, or registered by the Department of
 13.18 Commerce or the Department of Health under chapters 59A to 62M and 62P to 79A.

13.19 Subd. 9. **Multifactor authentication.** "Multifactor authentication" means authentication
 13.20 through verification of at least two of the following types of authentication factors:

13.21 (1) knowledge factors, such as a password;

13.22 (2) possession factors, such as a token or text message on a mobile phone; or

13.23 (3) inherence factors, such as a biometric characteristic.

13.24 Subd. 10. **Nonpublic information.** "Nonpublic information" means electronic information
 13.25 that is not publicly available information and is:

13.26 (1) any information concerning a consumer which because of name, number, personal
 13.27 mark, or other identifier can be used to identify the consumer, in combination with any one
 13.28 or more of the following data elements:

13.29 (i) Social Security number;

13.30 (ii) driver's license number or nondriver identification card number;

13.31 (iii) financial account number, credit card number, or debit card number;

14.1 (iv) any security code, access code, or password that would permit access to a consumer's
 14.2 financial account; or

14.3 (v) biometric records; or

14.4 (2) any information or data, except age or gender, in any form or medium created by or
 14.5 derived from a health care provider or a consumer that can be used to identify a particular
 14.6 consumer and that relates to:

14.7 (i) the past, present, or future physical, mental, or behavioral health or condition of any
 14.8 consumer or a member of the consumer's family;

14.9 (ii) the provision of health care to any consumer; or

14.10 (iii) payment for the provision of health care to any consumer.

14.11 Subd. 11. **Person.** "Person" means any individual or any nongovernmental entity,
 14.12 including but not limited to any nongovernmental partnership, corporation, branch, agency,
 14.13 or association.

14.14 Subd. 12. **Publicly available information.** "Publicly available information" means any
 14.15 information that a licensee has a reasonable basis to believe is lawfully made available to
 14.16 the general public from: federal, state, or local government records; widely distributed
 14.17 media; or disclosures to the general public that are required to be made by federal, state, or
 14.18 local law.

14.19 For the purposes of this definition, a licensee has a reasonable basis to believe that
 14.20 information is lawfully made available to the general public if the licensee has taken steps
 14.21 to determine:

14.22 (1) that the information is of the type that is available to the general public; and

14.23 (2) whether a consumer can direct that the information not be made available to the
 14.24 general public and, if so, that such consumer has not done so.

14.25 Subd. 13. **Risk assessment.** "Risk assessment" means the risk assessment that each
 14.26 licensee is required to conduct under section 60A.9853, subdivision 3.

14.27 Subd. 14. **State.** "State" means the state of Minnesota.

14.28 Subd. 15. **Third-party service provider.** "Third-party service provider" means a person,
 14.29 not otherwise defined as a licensee, that contracts with a licensee to maintain, process, or
 14.30 store nonpublic information, or is otherwise permitted access to nonpublic information
 14.31 through its provision of services to the licensee.

15.1 Sec. 6. **[60A.9851] INFORMATION SECURITY PROGRAM.**

15.2 **Subdivision 1. Implementation of an information security program.** Commensurate
15.3 with the size and complexity of the licensee, the nature and scope of the licensee's activities,
15.4 including its use of third-party service providers, and the sensitivity of the nonpublic
15.5 information used by the licensee or in the licensee's possession, custody, or control, each
15.6 licensee shall develop, implement, and maintain a comprehensive written information
15.7 security program based on the licensee's risk assessment and that contains administrative,
15.8 technical, and physical safeguards for the protection of nonpublic information and the
15.9 licensee's information system.

15.10 **Subd. 2. Objectives of an information security program.** A licensee's information
15.11 security program shall be designed to:

15.12 (1) protect the security and confidentiality of nonpublic information and the security of
15.13 the information system;

15.14 (2) protect against any threats or hazards to the security or integrity of nonpublic
15.15 information and the information system;

15.16 (3) protect against unauthorized access to, or use of, nonpublic information, and minimize
15.17 the likelihood of harm to any consumer; and

15.18 (4) define and periodically reevaluate a schedule for retention of nonpublic information
15.19 and a mechanism for its destruction when no longer needed.

15.20 **Subd. 3. Risk assessment.** The licensee shall:

15.21 (1) designate one or more employees, an affiliate, or an outside vendor authorized to act
15.22 on behalf of the licensee who is responsible for the information security program;

15.23 (2) identify reasonably foreseeable internal or external threats that could result in
15.24 unauthorized access, transmission, disclosure, misuse, alteration, or destruction of nonpublic
15.25 information, including threats to the security of information systems and nonpublic
15.26 information that are accessible to, or held by, third-party service providers;

15.27 (3) assess the likelihood and potential damage of the threats identified pursuant to clause
15.28 (2), taking into consideration the sensitivity of the nonpublic information;

15.29 (4) assess the sufficiency of policies, procedures, information systems, and other
15.30 safeguards in place to manage these threats, including consideration of threats in each
15.31 relevant area of the licensee's operations, including:

15.32 (i) employee training and management;

16.1 (ii) information systems, including network and software design, as well as information
16.2 classification, governance, processing, storage, transmission, and disposal; and

16.3 (iii) detecting, preventing, and responding to attacks, intrusions, or other systems failures;
16.4 and

16.5 (5) implement information safeguards to manage the threats identified in its ongoing
16.6 assessment, and no less than annually, assess the effectiveness of the safeguards' key controls,
16.7 systems, and procedures.

16.8 Subd. 4. **Risk management.** Based on its risk assessment, the licensee shall:

16.9 (1) design its information security program to mitigate the identified risks, commensurate
16.10 with the size and complexity of the licensee, the nature and scope of the licensee's activities,
16.11 including its use of third-party service providers, and the sensitivity of the nonpublic
16.12 information used by the licensee or in the licensee's possession, custody, or control;

16.13 (2) determine which of the following security measures are appropriate and implement
16.14 any appropriate security measures:

16.15 (i) place access controls on information systems, including controls to authenticate and
16.16 permit access only to authorized individuals, to protect against the unauthorized acquisition
16.17 of nonpublic information;

16.18 (ii) identify and manage the data, personnel, devices, systems, and facilities that enable
16.19 the organization to achieve business purposes in accordance with their relative importance
16.20 to business objectives and the organization's risk strategy;

16.21 (iii) restrict physical access to nonpublic information to authorized individuals only;

16.22 (iv) protect, by encryption or other appropriate means, all nonpublic information while
16.23 being transmitted over an external network and all nonpublic information stored on a laptop
16.24 computer or other portable computing or storage device or media;

16.25 (v) adopt secure development practices for in-house developed applications utilized by
16.26 the licensee;

16.27 (vi) modify the information system in accordance with the licensee's information security
16.28 program;

16.29 (vii) utilize effective controls, which may include multifactor authentication procedures
16.30 for employees accessing nonpublic information;

16.31 (viii) regularly test and monitor systems and procedures to detect actual and attempted
16.32 attacks on, or intrusions into, information systems;

17.1 (ix) include audit trails within the information security program designed to detect and
17.2 respond to cybersecurity events and designed to reconstruct material financial transactions
17.3 sufficient to support normal operations and obligations of the licensee;

17.4 (x) implement measures to protect against destruction, loss, or damage of nonpublic
17.5 information due to environmental hazards, such as fire and water damage, other catastrophes,
17.6 or technological failures; and

17.7 (xi) develop, implement, and maintain procedures for the secure disposal of nonpublic
17.8 information in any format;

17.9 (3) include cybersecurity risks in the licensee's enterprise risk management process;

17.10 (4) stay informed regarding emerging threats or vulnerabilities and utilize reasonable
17.11 security measures when sharing information relative to the character of the sharing and the
17.12 type of information shared; and

17.13 (5) provide its personnel with cybersecurity awareness training that is updated as
17.14 necessary to reflect risks identified by the licensee in the risk assessment.

17.15 Subd. 5. Oversight by board of directors. If the licensee has a board of directors, the
17.16 board or an appropriate committee of the board shall, at a minimum:

17.17 (1) require the licensee's executive management or its delegates to develop, implement,
17.18 and maintain the licensee's information security program;

17.19 (2) require the licensee's executive management or its delegates to report in writing, at
17.20 least annually, the following information:

17.21 (i) the overall status of the information security program and the licensee's compliance
17.22 with this act; and

17.23 (ii) material matters related to the information security program, addressing issues such
17.24 as risk assessment, risk management and control decisions, third-party service provider
17.25 arrangements, results of testing, cybersecurity events or violations and management's
17.26 responses thereto, and recommendations for changes in the information security program;
17.27 and

17.28 (3) if executive management delegates any of its responsibilities under this section, it
17.29 shall oversee the development, implementation, and maintenance of the licensee's information
17.30 security program prepared by the delegate and shall receive a report from the delegate
17.31 complying with the requirements of the report to the board of directors.

18.1 Subd. 6. Oversight of third-party service provider arrangements. (a) A licensee shall
18.2 exercise due diligence in selecting its third-party service provider.

18.3 (b) A licensee shall require a third-party service provider to implement appropriate
18.4 administrative, technical, and physical measures to protect and secure the information
18.5 systems and nonpublic information that are accessible to, or held by, the third-party service
18.6 provider.

18.7 Subd. 7. Program adjustments. The licensee shall monitor, evaluate, and adjust, as
18.8 appropriate, the information security program consistent with any relevant changes in
18.9 technology, the sensitivity of its nonpublic information, internal or external threats to
18.10 information, and the licensee's own changing business arrangements, such as mergers and
18.11 acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to
18.12 information systems.

18.13 Subd. 8. Incident response plan. (a) As part of its information security program, each
18.14 licensee shall establish a written incident response plan designed to promptly respond to,
18.15 and recover from, any cybersecurity event that compromises the confidentiality, integrity,
18.16 or availability of nonpublic information in its possession, the licensee's information systems,
18.17 or the continuing functionality of any aspect of the licensee's business or operations.

18.18 (b) The incident response plan shall address the following areas:

18.19 (1) the internal process for responding to a cybersecurity event;

18.20 (2) the goals of the incident response plan;

18.21 (3) the definition of clear roles, responsibilities, and levels of decision-making authority;

18.22 (4) external and internal communications and information sharing;

18.23 (5) identification of requirements for the remediation of any identified weaknesses in
18.24 information systems and associated controls;

18.25 (6) documentation and reporting regarding cybersecurity events and related incident
18.26 response activities; and

18.27 (7) the evaluation and revision, as necessary, of the incident response plan following a
18.28 cybersecurity event.

18.29 Subd. 9. Annual certification to commissioner. (a) Subject to paragraph (b), by April
18.30 15 of each year, an insurer domiciled in this state shall certify in writing to the commissioner
18.31 that the insurer is in compliance with the requirements set forth in this section. Each insurer
18.32 shall maintain all records, schedules, and data supporting this certificate for a period of five

19.1 years and shall permit examination by the commissioner. To the extent an insurer has
19.2 identified areas, systems, or processes that require material improvement, updating, or
19.3 redesign, the insurer shall document the identification and the remedial efforts planned and
19.4 underway to address such areas, systems, or processes. Such documentation must be available
19.5 for inspection by the commissioner.

19.6 (b) The commissioner must post on the department's website, no later than 60 days prior
19.7 to the certification required by paragraph (a), the form and manner of submission required
19.8 and any instructions necessary to prepare the certification.

19.9 **Sec. 7. [60A.9852] INVESTIGATION OF A CYBERSECURITY EVENT.**

19.10 Subdivision 1. **Prompt investigation.** If the licensee learns that a cybersecurity event
19.11 has or may have occurred, the licensee, or an outside vendor or service provider designated
19.12 to act on behalf of the licensee, shall conduct a prompt investigation.

19.13 Subd. 2. **Investigation contents.** During the investigation, the licensee, or an outside
19.14 vendor or service provider designated to act on behalf of the licensee, shall, at a minimum
19.15 and to the extent possible:

19.16 (1) determine whether a cybersecurity event has occurred;

19.17 (2) assess the nature and scope of the cybersecurity event, if any;

19.18 (3) identify whether any nonpublic information was involved in the cybersecurity event
19.19 and, if so, what nonpublic information was involved; and

19.20 (4) perform or oversee reasonable measures to restore the security of the information
19.21 systems compromised in the cybersecurity event in order to prevent further unauthorized
19.22 acquisition, release, or use of nonpublic information in the licensee's possession, custody,
19.23 or control.

19.24 Subd. 3. **Third-party systems.** If the licensee learns that a cybersecurity event has or
19.25 may have occurred in a system maintained by a third-party service provider, the licensee
19.26 will complete the steps listed in subdivision 2 or confirm and document that the third-party
19.27 service provider has completed those steps.

19.28 Subd. 4. **Records.** The licensee shall maintain records concerning all cybersecurity
19.29 events for a period of at least five years from the date of the cybersecurity event and shall
19.30 produce those records upon demand of the commissioner.

20.1 **Sec. 8. [60A.9853] NOTIFICATION OF A CYBERSECURITY EVENT.**

20.2 **Subdivision 1. Notification to the commissioner.** Each licensee shall notify the
20.3 commissioner of commerce or commissioner of health, whichever commissioner otherwise
20.4 regulates the licensee, without unreasonable delay but in no event later than five business
20.5 days from a determination that a cybersecurity event involving nonpublic information that
20.6 is in the possession of a licensee has occurred when either of the following criteria has been
20.7 met:

20.8 (1) this state is the licensee's state of domicile, in the case of an insurer, or this state is
20.9 the licensee's home state, in the case of a producer, as those terms are defined in chapter
20.10 60K and the cybersecurity event has a reasonable likelihood of materially harming:

20.11 (i) any consumer residing in this state; or

20.12 (ii) any part of the normal operations of the licensee; or

20.13 (2) the licensee reasonably believes that the nonpublic information involved is of 500
20.14 or more consumers residing in this state and that is either of the following:

20.15 (i) a cybersecurity event impacting the licensee of which notice is required to be provided
20.16 to any government body, self-regulatory agency, or any other supervisory body pursuant
20.17 to any state or federal law; or

20.18 (ii) a cybersecurity event that has a reasonable likelihood of materially harming:

20.19 (A) any consumer residing in this state; or

20.20 (B) any part of the normal operations of the licensee.

20.21 **Subd. 2. Information; notification.** A licensee making the notification required under
20.22 subdivision 1 shall provide the information in electronic form as directed by the
20.23 commissioner. The licensee shall have a continuing obligation to update and supplement
20.24 initial and subsequent notifications to the commissioner concerning material changes to
20.25 previously provided information relating to the cybersecurity event. The licensee shall
20.26 provide as much of the following information as possible:

20.27 (1) date of the cybersecurity event;

20.28 (2) description of how the information was exposed, lost, stolen, or breached, including
20.29 the specific roles and responsibilities of third-party service providers, if any;

20.30 (3) how the cybersecurity event was discovered;

21.1 (4) whether any lost, stolen, or breached information has been recovered and, if so, how
 21.2 this was done;

21.3 (5) the identity of the source of the cybersecurity event;

21.4 (6) whether the licensee has filed a police report or has notified any regulatory,
 21.5 government, or law enforcement agencies and, if so, when such notification was provided;

21.6 (7) description of the specific types of information acquired without authorization.
 21.7 Specific types of information means particular data elements including, for example, types
 21.8 of medical information, types of financial information, or types of information allowing
 21.9 identification of the consumer;

21.10 (8) the period during which the information system was compromised by the cybersecurity
 21.11 event;

21.12 (9) the number of total consumers in this state affected by the cybersecurity event. The
 21.13 licensee shall provide the best estimate in the initial report to the commissioner and update
 21.14 this estimate with each subsequent report to the commissioner pursuant to this section;

21.15 (10) the results of any internal review identifying a lapse in either automated controls
 21.16 or internal procedures, or confirming that all automated controls or internal procedures were
 21.17 followed;

21.18 (11) description of efforts being undertaken to remediate the situation which permitted
 21.19 the cybersecurity event to occur;

21.20 (12) a copy of the licensee's privacy policy and a statement outlining the steps the licensee
 21.21 will take to investigate and notify consumers affected by the cybersecurity event; and

21.22 (13) name of a contact person who is familiar with the cybersecurity event and authorized
 21.23 to act for the licensee.

21.24 Subd. 3. **Notification to consumers.** (a) If a licensee is required to submit a report to
 21.25 the commissioner under subdivision 1, the licensee shall notify any consumer residing in
 21.26 Minnesota if, as a result of the cybersecurity event reported to the commissioner, the
 21.27 consumer's nonpublic information was or is reasonably believed to have been acquired by
 21.28 an unauthorized person, and there is a reasonable likelihood of material harm to the consumer
 21.29 as a result of the cybersecurity event. Consumer notification is not required for a
 21.30 cybersecurity event resulting from the good faith acquisition of nonpublic information by
 21.31 an employee or agent of the licensee for the purposes of the licensee's business, provided
 21.32 the nonpublic information is not used for a purpose other than the licensee's business or
 21.33 subject to further unauthorized disclosure. The notification must be made in the most

22.1 expedient time possible and without unreasonable delay, consistent with the legitimate needs
22.2 of law enforcement or with any measures necessary to determine the scope of the breach,
22.3 identify the individuals affected, and restore the reasonable integrity of the data system.
22.4 The notification may be delayed to a date certain if the commissioner determines that
22.5 providing the notice impedes a criminal investigation. The licensee shall provide a copy of
22.6 the notice to the commissioner.

22.7 (b) For purposes of this subdivision, notice required under paragraph (a) must be provided
22.8 by one of the following methods:

22.9 (1) written notice to the consumer's most recent address in the licensee's records;

22.10 (2) electronic notice, if the licensee's primary method of communication with the
22.11 consumer is by electronic means or if the notice provided is consistent with the provisions
22.12 regarding electronic records and signatures in United States Code, title 15, section 7001;
22.13 or

22.14 (3) if the cost of providing notice exceeds \$250,000, the affected class of consumers to
22.15 be notified exceeds 500,000, or the licensee does not have sufficient contact information
22.16 for the subject consumers, notice as follows:

22.17 (i) e-mail notice when the licensee has an e-mail address for the subject consumers;

22.18 (ii) conspicuous posting of the notice on the website page of the licensee; and

22.19 (iii) notification to major statewide media.

22.20 (c) Notwithstanding paragraph (b), a licensee that maintains its own notification procedure
22.21 as part of its information security program that is consistent with the timing requirements
22.22 of this subdivision is deemed to comply with the notification requirements if the licensee
22.23 notifies subject consumers in accordance with its program.

22.24 (d) A waiver of the requirements under this subdivision is contrary to public policy, and
22.25 is void and unenforceable.

22.26 Subd. 4. Notice regarding cybersecurity events of third-party service providers. (a)
22.27 In the case of a cybersecurity event in a system maintained by a third-party service provider,
22.28 of which the licensee has become aware, the licensee shall treat such event as it would under
22.29 subdivision 1 unless the third-party service provider provides the notice required under
22.30 subdivision 1.

23.1 (b) The computation of a licensee's deadlines shall begin on the day after the third-party
23.2 service provider notifies the licensee of the cybersecurity event or the licensee otherwise
23.3 has actual knowledge of the cybersecurity event, whichever is sooner.

23.4 (c) Nothing in this act shall prevent or abrogate an agreement between a licensee and
23.5 another licensee, a third-party service provider, or any other party to fulfill any of the
23.6 investigation requirements imposed under section 60A.9854 or notice requirements imposed
23.7 under this section.

23.8 **Subd. 5. Notice regarding cybersecurity events of reinsurers to insurers.** (a) In the
23.9 case of a cybersecurity event involving nonpublic information that is used by the licensee
23.10 that is acting as an assuming insurer or in the possession, custody, or control of a licensee
23.11 that is acting as an assuming insurer and that does not have a direct contractual relationship
23.12 with the affected consumers, the assuming insurer shall notify its affected ceding insurers
23.13 and the commissioner of its state of domicile within three business days of making the
23.14 determination that a cybersecurity event has occurred.

23.15 (b) The ceding insurers that have a direct contractual relationship with affected consumers
23.16 shall fulfill the consumer notification requirements imposed under subdivision 3 and any
23.17 other notification requirements relating to a cybersecurity event imposed under this section.

23.18 (c) In the case of a cybersecurity event involving nonpublic information that is in the
23.19 possession, custody, or control of a third-party service provider of a licensee that is an
23.20 assuming insurer, the assuming insurer shall notify its affected ceding insurers and the
23.21 commissioner of its state of domicile within three business days of receiving notice from
23.22 its third-party service provider that a cybersecurity event has occurred.

23.23 (d) The ceding insurers that have a direct contractual relationship with affected consumers
23.24 shall fulfill the consumer notification requirements imposed under subdivision 3 and any
23.25 other notification requirements relating to a cybersecurity event imposed under this section.

23.26 (e) Any licensee acting as an assuming insurer shall have no other notice obligations
23.27 relating to a cybersecurity event or other data breach under this section.

23.28 **Subd. 6. Notice regarding cybersecurity events of insurers to producers of record.** (a)
23.29 In the case of a cybersecurity event involving nonpublic information that is in the possession,
23.30 custody, or control of a licensee that is an insurer or its third-party service provider and for
23.31 which a consumer accessed the insurer's services through an independent insurance producer,
23.32 the insurer shall notify the producers of record of all affected consumers no later than the
23.33 time at which notice is provided to the affected consumers.

24.1 (b) The insurer is excused from this obligation for those instances in which it does not
24.2 have the current producer of record information for any individual consumer or in those
24.3 instances in which the producer of record is no longer appointed to sell, solicit, or negotiate
24.4 on behalf of the insurer.

24.5 **Sec. 9. [60A.9854] POWER OF COMMISSIONER.**

24.6 (a) The commissioner of commerce or commissioner of health, whichever commissioner
24.7 otherwise regulates the licensee, shall have power to examine and investigate into the affairs
24.8 of any licensee to determine whether the licensee has been or is engaged in any conduct in
24.9 violation of sections 60A.985 to 60A.9857. This power is in addition to the powers which
24.10 the commissioner has under section 60A.031. Any such investigation or examination shall
24.11 be conducted pursuant to section 60A.031.

24.12 (b) Whenever the commissioner of commerce or commissioner of health has reason to
24.13 believe that a licensee has been or is engaged in conduct in this state which violates sections
24.14 60A.985 to 60A.9857, the commissioner of commerce or commissioner of health may take
24.15 action that is necessary or appropriate to enforce those sections.

24.16 **Sec. 10. [60A.9855] CONFIDENTIALITY.**

24.17 Subdivision 1. **Licensee information.** Any documents, materials, or other information
24.18 in the control or possession of the department that are furnished by a licensee or an employee
24.19 or agent thereof acting on behalf of a licensee pursuant to section 60A.9851, subdivision
24.20 9; section 60A.9853, subdivision 2, clauses (2), (3), (4), (5), (8), (10), and (11); or that are
24.21 obtained by the commissioner in an investigation or examination pursuant to section
24.22 60A.9854 shall be nonpublic data pursuant to section 13.02; shall not be subject to subpoena;
24.23 and shall not be subject to discovery or admissible in evidence in any private civil action.
24.24 However, the commissioner is authorized to use the documents, materials, or other
24.25 information in the furtherance of any regulatory or legal action brought as a part of the
24.26 commissioner's duties. Nothing in this act shall allow the release of information that is
24.27 nonpublic data pursuant to section 13.02.

24.28 Subd. 2. **Certain testimony prohibited.** Neither the commissioner nor any person who
24.29 received documents, materials, or other information while acting under the authority of the
24.30 commissioner shall be permitted or required to testify in any private civil action concerning
24.31 any confidential documents, materials, or information subject to subdivision 1.

24.32 Subd. 3. **Information sharing.** In order to assist in the performance of the commissioner's
24.33 duties under this act, the commissioner:

25.1 (1) may share documents, materials, or other information, including the confidential and
 25.2 privileged documents, materials, or information subject to subdivision 1, with other state,
 25.3 federal, and international regulatory agencies, with the National Association of Insurance
 25.4 Commissioners, its affiliates or subsidiaries, and with state, federal, and international law
 25.5 enforcement authorities, provided that the recipient agrees in writing to maintain the
 25.6 confidentiality and privileged status of the document, material, or other information;

25.7 (2) may receive documents, materials, or information, including otherwise confidential
 25.8 and privileged documents, materials, or information, from the National Association of
 25.9 Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law
 25.10 enforcement officials of other foreign or domestic jurisdictions, and shall maintain as
 25.11 confidential or privileged any document, material, or information received with notice or
 25.12 the understanding that it is confidential or privileged under the laws of the jurisdiction that
 25.13 is the source of the document, material, or information;

25.14 (3) may share documents, materials, or other information subject to subdivision 1, with
 25.15 a third-party consultant or vendor provided the consultant agrees in writing to maintain the
 25.16 confidentiality and privileged status of the document, material, or other information; and

25.17 (4) may enter into agreements governing sharing and use of information consistent with
 25.18 this subdivision.

25.19 Subd. 4. **No waiver of privilege or confidentiality.** No waiver of any applicable privilege
 25.20 or claim of confidentiality in the documents, materials, or information shall occur as a result
 25.21 of disclosure to the commissioner under this section or as a result of sharing as authorized
 25.22 in subdivision 3.

25.23 Subd. 5. **Certain actions public.** Nothing in sections 60A.985 to 60A.9857 shall prohibit
 25.24 the commissioner from releasing final, adjudicated actions that are open to public inspection
 25.25 pursuant to chapter 13 to a database or other clearinghouse service maintained by the National
 25.26 Association of Insurance Commissioners, its affiliates, or subsidiaries.

25.27 Subd. 6. **Classification, protection, and use of information by others.** Documents,
 25.28 materials, or other information in the possession or control of the National Association of
 25.29 Insurance Commissioners or a third-party consultant pursuant to sections 60A.985 to
 25.30 60A.9857 are classified as confidential, protected nonpublic, and privileged; are not subject
 25.31 to subpoena; and are not subject to discovery or admissible in evidence in a private civil
 25.32 action.

26.1 Sec. 11. **[60A.9856] EXCEPTIONS.**

26.2 Subdivision 1. Generally. The following exceptions shall apply to sections 60A.985 to
26.3 60A.9857:

26.4 (1) a licensee with fewer than 25 employees is exempt from sections 60A.9851 and
26.5 60A.9852;

26.6 (2) a licensee subject to and in compliance with the Health Insurance Portability and
26.7 Accountability Act, Public Law 104-191, 110 Stat. 1936 (HIPAA), is considered to comply
26.8 with sections 60A.9851, 60A.9852, and 60A.9853, subdivisions 3 to 6, provided the licensee
26.9 submits a written statement certifying its compliance with HIPAA;

26.10 (3) a licensee affiliated with a depository institution that maintains an information security
26.11 program in compliance with the interagency guidelines establishing standards for
26.12 safeguarding customer information as set forth pursuant to United States Code, title 15,
26.13 sections 6801 and 6805, shall be considered to meet the requirements of section 60A.9851
26.14 provided that the licensee produce, upon request, documentation satisfactory to the
26.15 commission that independently validates the affiliated depository institution's adoption of
26.16 an information security program that satisfies the interagency guidelines;

26.17 (4) an employee, agent, representative, or designee of a licensee, who is also a licensee,
26.18 is exempt from sections 60A.9851 and 60A.9852 and need not develop its own information
26.19 security program to the extent that the employee, agent, representative, or designee is covered
26.20 by the information security program of the other licensee; and

26.21 (5) an employee, agent, representative, or designee of a producer licensee, as defined
26.22 under section 60K.31, subdivision 6, who is also a licensee, is exempt from sections 60A.985
26.23 to 60A.9857.

26.24 Subd. 2. Deemer. A licensee that is in compliance with another jurisdiction's mandated
26.25 written insurance data security requirements that are at least as restrictive as this chapter
26.26 will be considered to meet the requirements of this act with respect to establishing an
26.27 information security program.

26.28 Sec. 12. **[60A.9857] PENALTIES.**

26.29 In the case of a violation of sections 60A.985 to 60A.9856, a licensee may be penalized
26.30 in accordance with section 60A.052.

27.1 Sec. 13. Minnesota Statutes 2020, section 61A.245, subdivision 4, is amended to read:

27.2 Subd. 4. **Minimum values.** The minimum values as specified in subdivisions 5, 6, 7, 8
27.3 and 10 of any paid-up annuity, cash surrender or death benefits available under an annuity
27.4 contract shall be based upon minimum nonforfeiture amounts as defined in this subdivision.

27.5 (a) The minimum nonforfeiture amount at any time at or prior to the commencement of
27.6 any annuity payments shall be equal to an accumulation up to that time at rates of interest
27.7 as indicated in paragraph (b) of the net considerations, as defined in this subdivision, paid
27.8 prior to that time, decreased by the sum of clauses (1) through (4):

27.9 (1) any prior withdrawals from or partial surrenders of the contract accumulated at rates
27.10 of interest as indicated in paragraph (b);

27.11 (2) an annual contract charge of \$50, accumulated at rates of interest as indicated in
27.12 paragraph (b);

27.13 (3) any premium tax paid by the company for the contract and not subsequently credited
27.14 back to the company, such as upon early termination of the contract, in which case this
27.15 decrease must not be taken, accumulated at rates of interest as indicated in paragraph (b);
27.16 and

27.17 (4) the amount of any indebtedness to the company on the contract, including interest
27.18 due and accrued.

27.19 The net considerations for a given contract year used to define the minimum nonforfeiture
27.20 amount shall be an amount equal to 87.5 percent of the gross considerations credited to the
27.21 contract during that contract year.

27.22 (b) The interest rate used in determining minimum nonforfeiture amounts must be an
27.23 annual rate of interest determined as the lesser of three percent per annum and the following,
27.24 which must be specified in the contract if the interest rate will be reset:

27.25 (1) the five-year constant maturity treasury rate reported by the Federal Reserve as of a
27.26 date, or average over a period, rounded to the nearest 1/20 of one percent, specified in the
27.27 contract no longer than 15 months prior to the contract issue date or redetermination date
27.28 under clause (4);

27.29 (2) reduced by 125 basis points;

27.30 (3) where the resulting interest rate is not less than ~~one~~ 0.15 percent; and

27.31 (4) the interest rate shall apply for an initial period and may be redetermined for additional
27.32 periods. The redetermination date, basis, and period, if any, shall be stated in the contract.

28.1 The basis is the date or average over a specified period that produces the value of the
 28.2 five-year constant maturity treasury rate to be used at each redetermination date.

28.3 (c) During the period or term that a contract provides substantive participation in an
 28.4 equity indexed benefit, it may increase the reduction described in clause (2) by up to an
 28.5 additional 100 basis points to reflect the value of the equity index benefit. The present value
 28.6 at the contract issue date, and at each redetermination date thereafter, of the additional
 28.7 reduction must not exceed the market value of the benefit. The commissioner may require
 28.8 a demonstration that the present value of the additional reduction does not exceed the market
 28.9 value of the benefit. Lacking such a demonstration that is acceptable to the commissioner,
 28.10 the commissioner may disallow or limit the additional reduction.

28.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

28.12 Sec. 14. Minnesota Statutes 2020, section 79.55, subdivision 10, is amended to read:

28.13 Subd. 10. **Duties of commissioner; report.** ~~The commissioner shall issue a report by~~
 28.14 ~~March 1 of each year, comparing the average rates charged by workers' compensation~~
 28.15 ~~insurers in the state to the pure premium base rates filed by the association, as reviewed by~~
 28.16 ~~the Rate Oversight Commission. The Rate Oversight Commission shall review the~~
 28.17 ~~commissioner's report and if the experience indicates that rates have not reasonably reflected~~
 28.18 ~~changes in pure premiums, the rate oversight commission shall recommend to the legislature~~
 28.19 ~~appropriate legislative changes to this chapter.~~

28.20 (a) By March 1 of each year, the commissioner must issue a report that evaluates the
 28.21 competitiveness of the workers' compensation market in Minnesota, in order to evaluate
 28.22 whether the competitive rating law is working.

28.23 (b) The report under this subdivision must (1) compare the average rates charged by
 28.24 workers' compensation insurers in Minnesota with the pure premium base rates filed by the
 28.25 association, and (2) provide market information, including but not limited to the number of
 28.26 carriers, market shares, the loss-cost multipliers used by companies, and the residual market
 28.27 and self-insurance.

28.28 (c) The commissioner must provide the report to the Rate Oversight Commission for
 28.29 review. If after reviewing the report the Rate Oversight Commission concludes that concerns
 28.30 exist regarding the competitiveness of the workers' compensation market in Minnesota, the
 28.31 Rate Oversight Commission must recommend to the legislature appropriate modifications
 28.32 to this chapter.

29.1 Sec. 15. Minnesota Statutes 2020, section 79.61, subdivision 1, is amended to read:

29.2 Subdivision 1. **Required activity.** (a) Any data service organization shall perform the
29.3 following activities:

29.4 (1) file statistical plans, including classification definitions, amendments to the plans,
29.5 and definitions, with the commissioner for approval, and assign each compensation risk
29.6 written by its members to its approved classification for reporting purposes;

29.7 (2) establish requirements for data reporting and monitoring methods to maintain a high
29.8 quality database;

29.9 (3) prepare and distribute a periodic report, in a form prescribed by the commissioner,
29.10 on ratemaking including, but not limited to the following elements:

29.11 (i) ~~development factors and alternative derivations~~ losses developed to their ultimate
29.12 level;

29.13 (ii) ~~trend factors and alternative derivations and applications~~ trended losses;

29.14 (iii) loss adjustment expenses;

29.15 (iv) pure premium relativities for the approved classification system for which data are
29.16 reported, provided that the relativities for insureds engaged in similar occupations and
29.17 presenting substantially similar risks shall, if different, differ by at least ten percent; and

29.18 ~~(iv)~~ (v) an evaluation of the effects of changes in law on loss data;

29.19 ~~The report shall also include explicit discussion and explanation of methodology,~~
29.20 ~~alternatives examined, assumptions adopted, and areas of judgment and reasoning supporting~~
29.21 ~~judgments entered into, and the effect of various combinations of these elements on~~
29.22 ~~indications for modification of an overall pure premium rate level change. The pure premium~~
29.23 ~~relativities and rate level indications shall not include a loading for expenses or profit and~~
29.24 ~~no expense or profit data or recommendations relating to expense or profit shall be included~~
29.25 ~~in the report or collected by a data service organization;~~

29.26 (4) collect, compile, summarize, and distribute data from members or other sources
29.27 pursuant to a statistical plan approved by the commissioner;

29.28 (5) prepare merit rating plan and calculate any variable factors necessary for utilization
29.29 of the plan. Such a plan may be used by any of its members, at the option of the member
29.30 provided that the application of a plan shall not result in rates that are unfairly discriminatory;

29.31 (6) provide loss data specific to an insured to the insured at a reasonable cost;

30.1 (7) distribute information to an insured or interested party that is filed with the
30.2 commissioner and is open to public inspection; and

30.3 (8) assess its members for operating expenses on a fair and equitable basis.

30.4 (b) The report under paragraph (a), clause (3), shall also include explicit discussion and
30.5 explanation of methodology, alternatives examined, assumptions adopted, and areas of
30.6 judgment and reasoning supporting judgments entered into, and the effect of various
30.7 combinations of these elements on indications for modification of an overall pure premium
30.8 rate level change. The pure premium relativities and rate level indications shall not include
30.9 a loading for expenses or profit and no expense or profit data or recommendations relating
30.10 to expense or profit shall be included in the report or collected by a data service organization.
30.11 For purposes of this subdivision, "expenses" means expenses other than loss adjustment
30.12 expenses.

30.13 Sec. 16. Minnesota Statutes 2020, section 80G.06, subdivision 1, is amended to read:

30.14 Subdivision 1. **Surety bond requirement.** (a) Every dealer shall maintain a current,
30.15 valid surety bond issued by a surety company admitted to do business in Minnesota in an
30.16 amount based on the transactions conducted with Minnesota consumers (purchases from
30.17 and sales to consumers at retail) during the 12-month period prior to registration, or renewal,
30.18 whichever is applicable.

30.19 (b) The amount of the surety bond shall be as specified in the table below:

30.20 Transaction Amount in Preceding	30.20 Surety Bond Required
30.21 12-month Period	
30.22 \$25,000 <u>\$0</u> to \$200,000	\$25,000
30.23 \$200,000.01 to \$500,000	\$50,000
30.24 \$500,000.01 to \$1,000,000	\$100,000
30.25 \$1,000,000.01 to \$2,000,000	\$150,000
30.26 Over \$2,000,000	\$200,000

30.27 Sec. 17. **[80G.11] NOTIFICATION TO COMMISSIONER.**

30.28 A dealer must notify the commissioner of any dealer representative termination within
30.29 ten days of the termination if the termination is based in whole or in part on a violation of
30.30 this chapter.

30.31 Sec. 18. Minnesota Statutes 2020, section 82.57, subdivision 1, is amended to read:

30.32 Subdivision 1. **Amounts.** The following fees shall be paid to the commissioner:

31.1 (a) a fee of \$150 for each initial individual broker's license, and a fee of \$100 for each
31.2 renewal thereof;

31.3 (b) a fee of \$70 for each initial salesperson's license, and a fee of \$40 for each renewal
31.4 thereof;

31.5 (c) a fee of \$85 for each initial real estate closing agent license, and a fee of \$60 for each
31.6 renewal thereof;

31.7 (d) a fee of \$150 for each initial corporate, limited liability company, or partnership
31.8 license, and a fee of \$100 for each renewal thereof;

31.9 (e) a fee for payment to the education, research and recovery fund in accordance with
31.10 section 82.86;

31.11 (f) a fee of \$20 for each transfer;

31.12 ~~(g) a fee of \$50 for license reinstatement;~~

31.13 ~~(h)~~ (g) a fee of \$20 for reactivating a corporate, limited liability company, or partnership
31.14 license; and

31.15 ~~(i)~~ (h) in addition to the fees required under this subdivision, individual licensees under
31.16 clauses (a) and (b) shall pay, for each initial license and renewal, a technology surcharge
31.17 of up to \$40 under section 45.24, unless the commissioner has adjusted the surcharge as
31.18 permitted under that section.

31.19 Sec. 19. Minnesota Statutes 2020, section 82.57, subdivision 5, is amended to read:

31.20 Subd. 5. **Initial license expiration; fee reduction.** ~~If an initial license issued under~~
31.21 ~~subdivision 1, paragraph (a), (b), (c), or (d) expires less than 12 months after issuance, the~~
31.22 ~~license fee shall be reduced by an amount equal to one-half the fee for a renewal of the~~
31.23 ~~license. An initial license issued under this chapter expires in the year that results in the~~
31.24 ~~term of the license being at least 12 months, but no more than 24 months.~~

31.25 Sec. 20. Minnesota Statutes 2020, section 82.62, subdivision 3, is amended to read:

31.26 Subd. 3. **Timely renewals.** A person ~~whose application for a license renewal has not~~
31.27 ~~been timely submitted and~~ who has not received notice of approval of renewal may not
31.28 continue to transact business either as a real estate broker, salesperson, or closing agent
31.29 after June 30 of the renewal year until approval of renewal is received. Application for
31.30 renewal of a license is timely submitted if: all requirements for renewal, including continuing

32.1 education requirements, have been completed and reported pursuant to section 45.43,
 32.2 subdivision 1.

32.3 ~~(1) all requirements for renewal, including continuing education requirements, have~~
 32.4 ~~been completed by June 15 of the renewal year; and~~

32.5 ~~(2) the application is submitted before the renewal deadline in the manner prescribed~~
 32.6 ~~by the commissioner, duly executed and sworn to, accompanied by fees prescribed by this~~
 32.7 ~~chapter, and containing any information the commissioner requires.~~

32.8 Sec. 21. Minnesota Statutes 2020, section 82.81, subdivision 12, is amended to read:

32.9 Subd. 12. **Fraudulent, deceptive, and dishonest practices.** (a) **Prohibitions.** For the
 32.10 purposes of section 82.82, subdivision 1, clause (b), the following acts and practices constitute
 32.11 fraudulent, deceptive, or dishonest practices:

32.12 (1) act on behalf of more than one party to a transaction without the knowledge and
 32.13 consent of all parties;

32.14 (2) act in the dual capacity of licensee and undisclosed principal in any transaction;

32.15 (3) receive funds while acting as principal which funds would constitute trust funds if
 32.16 received by a licensee acting as an agent, unless the funds are placed in a trust account.
 32.17 Funds need not be placed in a trust account if a written agreement signed by all parties to
 32.18 the transaction specifies a different disposition of the funds, in accordance with section
 32.19 82.82, subdivision 1;

32.20 (4) violate any state or federal law concerning discrimination intended to protect the
 32.21 rights of purchasers or renters of real estate;

32.22 (5) make a material misstatement in an application for a license or in any information
 32.23 furnished to the commissioner;

32.24 (6) procure or attempt to procure a real estate license for ~~himself or herself~~ the procuring
 32.25 individual or any person by fraud, misrepresentation, or deceit;

32.26 (7) represent membership in any real estate-related organization in which the licensee
 32.27 is not a member;

32.28 (8) advertise in any manner that is misleading or inaccurate with respect to properties,
 32.29 terms, values, policies, or services conducted by the licensee;

32.30 (9) make any material misrepresentation or permit or allow another to make any material
 32.31 misrepresentation;

33.1 (10) make any false or misleading statements, or permit or allow another to make any
 33.2 false or misleading statements, of a character likely to influence, persuade, or induce the
 33.3 consummation of a transaction contemplated by this chapter;

33.4 (11) fail within a reasonable time to account for or remit any money coming into the
 33.5 licensee's possession which belongs to another;

33.6 (12) commingle with ~~his or her~~ the individual's own money or property trust funds or
 33.7 any other money or property of another held by the licensee;

33.8 (13) a demand from a seller for a commission to or compensation to which the licensee
 33.9 is not entitled, knowing that ~~he or she~~ the individual is not entitled to the commission or
 33.10 compensation;

33.11 (14) pay or give money or goods of value to an unlicensed person for any assistance or
 33.12 information relating to the procurement by a licensee of a listing of a property or of a
 33.13 prospective buyer of a property (this item does not apply to money or goods paid or given
 33.14 to the parties to the transaction);

33.15 (15) fail to maintain a trust account at all times, as provided by law;

33.16 (16) engage, with respect to the offer, sale, or rental of real estate, in an anticompetitive
 33.17 activity;

33.18 (17) represent on advertisements, cards, signs, circulars, letterheads, or in any other
 33.19 manner, that ~~he or she~~ the individual is engaged in the business of financial planning unless
 33.20 ~~he or she~~ the individual provides a disclosure document to the client. The document must
 33.21 be signed by the client and a copy must be left with the client. The disclosure document
 33.22 must contain the following:

33.23 (i) the basis of fees, commissions, or other compensation received by ~~him or her~~ an
 33.24 individual in connection with rendering of financial planning services or financial counseling
 33.25 or advice in the following language:

33.26 "My compensation may be based on the following:

33.27 (a) ... commissions generated from the products I sell you;

33.28 (b) ... fees; or

33.29 (c) ... a combination of (a) and (b). [Comments]";

33.30 (ii) the name and address of any company or firm that supplies the financial services or
 33.31 products offered or sold by ~~him or her~~ an individual in the following language:

34.1 "I am authorized to offer or sell products and/or services issued by or through the
34.2 following firm(s):

34.3 [List]

34.4 The products will be traded, distributed, or placed through the clearing/trading firm(s)
34.5 of:

34.6 [List]";

34.7 (iii) the license(s) held by the person under this chapter or chapter 60A or 80A in the
34.8 following language:

34.9 "I am licensed in Minnesota as a(n):

34.10 (a) ... insurance agent;

34.11 (b) ... securities agent or broker/dealer;

34.12 (c) ... real estate broker or salesperson;

34.13 (d) ... investment adviser"; and

34.14 (iv) the specific identity of any financial products or services, by category, for example
34.15 mutual funds, stocks, or limited partnerships, the person is authorized to offer or sell in the
34.16 following language:

34.17 "The license(s) entitles me to offer and sell the following products and/or services:

34.18 (a) ... securities, specifically the following: [List];

34.19 (b) ... real property;

34.20 (c) ... insurance; and

34.21 (d) ... other: [List]."

34.22 (b) **Determining violation.** A licensee shall be deemed to have violated this section if
34.23 the licensee has been found to have violated sections 325D.49 to 325D.66, by a final decision
34.24 or order of a court of competent jurisdiction.

34.25 (c) **Commissioner's authority.** Nothing in this section limits the authority of the
34.26 commissioner to take actions against a licensee for fraudulent, deceptive, or dishonest
34.27 practices not specifically described in this section.

35.1 Sec. 22. Minnesota Statutes 2020, section 82B.021, subdivision 18, is amended to read:

35.2 Subd. 18. **Licensed real property appraiser.** "Licensed real property appraiser" means
35.3 an individual licensed under this chapter to perform appraisals on noncomplex one-family
35.4 to four-family residential units or agricultural property having a transactional value of less
35.5 than \$1,000,000 and complex one-family to four-family residential units or agricultural
35.6 property having a transactional value of less than ~~\$250,000~~ \$400,000.

35.7 Sec. 23. Minnesota Statutes 2020, section 82B.11, subdivision 3, is amended to read:

35.8 Subd. 3. **Licensed residential real property appraiser.** A licensed residential real
35.9 property appraiser may appraise noncomplex residential property or agricultural property
35.10 having a transaction value less than \$1,000,000 and complex residential or agricultural
35.11 property having a transaction value less than ~~\$250,000~~ \$400,000.

35.12 Sec. 24. Minnesota Statutes 2020, section 332.33, subdivision 3, is amended to read:

35.13 Subd. 3. **Term and fees.** Licenses issued or renewed and registrations received by the
35.14 commissioner of commerce under sections 332.31 to 332.44 shall expire on June 30. Each
35.15 collection agency license shall plainly state the name and business address of the licensee,
35.16 and shall be posted in a conspicuous place in the office where the business is transacted.
35.17 The fee for each collection agency license is \$500, and renewal is \$400. The fee for each
35.18 collector registration and renewal is \$10, which entitles the individual collector to work at
35.19 a licensee's business location or in another location as provided under subdivision 5b. An
35.20 additional branch license is not required for a location used under subdivision 5b. A collection
35.21 agency licensee who desires to carry on business in more than one place shall procure a
35.22 license for each place where the business is to be conducted.

35.23 Sec. 25. Minnesota Statutes 2020, section 332.33, is amended by adding a subdivision to
35.24 read:

35.25 Subd. 5b. **Work from home.** An employee of a licensed collection agency may work
35.26 from a location other than the licensee's business location if the licensee and employee
35.27 comply with all requirements under this section that would apply if the employee were
35.28 working at the business location.

35.29 Sec. 26. **[332.61] INFORMATIVE DISCLOSURE.**

35.30 A lead generator must prominently make the following disclosure on all print, electronic,
35.31 and nonprint solicitations, including advertising on websites, radio, or television: "This

36.1 company does not actually provide any of the credit services you are seeking. We ONLY
 36.2 refer you to companies that want to provide some or all of those services."

36.3 Sec. 27. Minnesota Statutes 2020, section 386.375, subdivision 3, is amended to read:

36.4 Subd. 3. **Consumer education information.** (a) A person other than the mortgagor or
 36.5 fee owner who transfers or offers to transfer an abstract of title shall present to the mortgagor
 36.6 or fee owner basic information in plain English about abstracts of title. This information
 36.7 must be sent in a form prepared and approved by the commissioner of commerce and must
 36.8 contain at least the following items:

36.9 (1) a definition and description of abstracts of title;

36.10 (2) an explanation that holders of abstracts of title must maintain it with reasonable care;

36.11 (3) an approximate cost or range of costs to replace a lost or damaged abstract of title;

36.12 and

36.13 ~~(4) an explanation that abstracts of title may be required to sell, finance, or refinance~~
 36.14 ~~real estate; and~~

36.15 ~~(5)~~ (4) an explanation of options for storage of abstracts.

36.16 (b) The commissioner shall prepare the form for use under this subdivision as soon as
 36.17 possible. This subdivision does not apply until 60 days after the form is approved by the
 36.18 commissioner.

36.19 (c) A person violating this subdivision is subject to a penalty of \$200 for each violation.

36.20 Sec. 28. **EXCLUSIVITY.**

36.21 Notwithstanding any other provision of law, this act establishes the exclusive state
 36.22 standards applicable to licensees for data security, the investigation of a cybersecurity event,
 36.23 and notification of a cybersecurity event.

36.24 Sec. 29. **EXPEDITED RULEMAKING AUTHORIZED.**

36.25 The commissioner shall amend Minnesota Rules, parts 2705.1000, item B, subitem (4);
 36.26 2705.0200, subpart 7; 2705.1700, subpart 2; and 2705.1800, item B, or other parts of
 36.27 Minnesota Rules, chapter 2705, as necessary to permit a data service organization to collect
 36.28 loss adjustment expense data and to consider and include in its ratemaking report losses
 36.29 developed to their ultimate value, trended losses, and loss adjustment expenses. The

37.1 commissioner may use the expedited rulemaking procedures under Minnesota Statutes,
37.2 section 14.389.

37.3 Sec. 30. **REPEALER.**

37.4 (a) Minnesota Statutes 2020, sections 60A.98; 60A.981; and 60A.982, are repealed.

37.5 (b) Minnesota Statutes 2020, section 45.017, is repealed.

37.6 Sec. 31. **EFFECTIVE DATE.**

37.7 (a) Sections 1 to 3 are effective January 1, 2022, and apply to reinsurance contracts
37.8 entered into or renewed on or after that date.

37.9 (b) Sections 5 to 12, 28, and 30, paragraph (a), are effective August 1, 2021. Licensees
37.10 have one year from the effective date to implement Minnesota Statutes, section 60A.9851,
37.11 subdivisions 1 to 5 and 7 to 9, and two years from the effective date of this act to implement
37.12 Minnesota Statutes, section 60A.9851, subdivision 6.

45.017 MEDICAL MALPRACTICE INSURANCE REPORT.

(a) The commissioner of commerce shall provide to the legislature annually a brief written report on the status of the market for medical malpractice insurance in Minnesota. The report must summarize, interpret, explain, and analyze information on that subject available to the commissioner, through annual statements filed by insurance companies, information obtained under paragraph (c), and other sources.

(b) The annual report must consider, to the extent possible, using definitions developed by the commissioner, Minnesota-specific data on market shares; premiums received; amounts paid to settle claims that were not litigated, claims that were settled after litigation began, and claims that were litigated to court judgment; amounts spent on processing, investigation, litigation, and otherwise handling claims; other sales and administrative costs; and the loss ratios of the insurers.

(c) Each insurance company that provides medical malpractice insurance in this state shall, no later than June 1 each year, file with the commissioner of commerce, on a form prescribed by the commissioner and using definitions developed by the commissioner, the Minnesota-specific data referenced in paragraph (b), other than market share, for the previous calendar year for that insurance company, shown separately for various categories of coverages including, if possible, hospitals, medical clinics, nursing homes, physicians who provide emergency medical care, obstetrician gynecologists, and ambulance services. An insurance company need not comply with this paragraph if its direct premium written in the state for the previous calendar year is less than \$2,000,000.

60A.98 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 60A.98 and 60A.981, the terms defined in this section have the meanings given them.

Subd. 2. **Customer.** "Customer" means a consumer who has a continuing relationship with a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family, or household purposes.

Subd. 3. **Customer information.** "Customer information" means nonpublic personal information about a customer, whether in paper, electronic, or other form, that is maintained by or on behalf of the licensee.

Subd. 4. **Customer information systems.** "Customer information systems" means the electronic or physical methods used to access, collect, store, use, transmit, protect, or dispose of customer information.

Subd. 5. **Licensee.** "Licensee" means all licensed insurers, producers, and other persons licensed or required to be licensed, authorized or required to be authorized, or registered or required to be registered pursuant to the insurance laws of this state, except that "licensee" does not include a purchasing group or an ineligible insurer in regard to the surplus line insurance conducted pursuant to sections 60A.195 to 60A.209. "Licensee" does not include producers until January 1, 2007.

Subd. 6. **Nonpublic financial information.** "Nonpublic financial information" means:

- (1) personally identifiable financial information; and
- (2) any list, description, or other grouping of consumers, and publicly available information pertaining to them, that is derived using any personally identifiable financial information that is not publicly available.

Subd. 7. **Nonpublic personal health information.** "Nonpublic personal health information" means health information:

- (1) that identifies an individual who is the subject of the information; or
- (2) with respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

Subd. 8. **Nonpublic personal information.** "Nonpublic personal information" means nonpublic financial information and nonpublic personal health information.

Subd. 9. **Personally identifiable financial information.** "Personally identifiable financial information" means any information:

- (1) a consumer provides to a licensee to obtain an insurance product or service from the licensee;

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(2) about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

(3) the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

Subd. 10. **Service provider.** "Service provider" means a person that maintains, processes, or otherwise is permitted access to customer information through its provision of services directly to the licensee.

60A.981 INFORMATION SECURITY PROGRAM.

Subdivision 1. **General requirements.** Each licensee shall implement a comprehensive written information security program that includes administrative, technical, and physical safeguards for the protection of customer information. The administrative, technical, and physical safeguards included in the information security program must be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

Subd. 2. **Objectives.** A licensee's information security program must be designed to:

(1) ensure the security and confidentiality of customer information;

(2) protect against any anticipated threats or hazards to the security or integrity of the information; and

(3) protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

Subd. 3. **Examples of methods of development and implementation.** The following actions and procedures are examples of methods of implementation of the requirements of subdivisions 1 and 2. These examples are nonexclusive illustrations of actions and procedures that licensees may follow to implement subdivisions 1 and 2:

(1) the licensee:

(i) identifies reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration, or destruction of customer information or customer information systems;

(ii) assesses the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and

(iii) assesses the sufficiency of policies, procedures, customer information systems, and other safeguards in place to control risks;

(2) the licensee:

(i) designs its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities;

(ii) trains staff, as appropriate, to implement the licensee's information security program; and

(iii) regularly tests or otherwise regularly monitors the key controls, systems, and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment;

(3) the licensee:

(i) exercises appropriate due diligence in selecting its service providers; and

(ii) requires its service providers to implement appropriate measures designed to meet the objectives of this regulation, and, where indicated by the licensee's risk assessment, takes appropriate steps to confirm that its service providers have satisfied these obligations; and

(4) the licensee monitors, evaluates, and adjusts, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to customer information systems.

APPENDIX
Repealed Minnesota Statutes: S1846-2

60A.982 UNFAIR TRADE PRACTICES.

A violation of sections 60A.98 and 60A.981 is considered to be a violation of sections 72A.17 to 72A.32.