A bill for an act
relating to insurance; requiring surcharge disclosure for homeowner's insurance; proposing coding for new law in Minnesota Statutes, chapter 65A.

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

Section 1. **[65A.285] SURCHARGE DISCLOSURE.**

Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this section have the meanings given them.

(a) "Computed premium" means the rate in effect before the application of a surcharge.

(b) "Chargeable claim" means a claim that is taken into consideration in applying a surcharge.

(c) "Policy" means a policy providing homeowner's insurance.

(d) "Surcharge" means any increase in premium for a policy, including the removal of a claim-free discount, based upon a claim.

(e) "Surcharge disclosure statement" means a written statement disclosing the surcharge plan of an insurer, the effective date of the surcharge plan, the name of the insurer, and any other information that the commissioner may require to be disclosed to assist insureds in comparing surcharge plans among insurers.

(f) "Surcharge plan" means the conditions under which an insurer applies a surcharge including but not limited to: (1) the maximum dollar amount that an insurer pays due to a claim without applying a surcharge; (2) claims that are not chargeable; (3) the length of time that a claim is chargeable; and (4) surcharge rates for the first and each successive claim.

(g) "Surcharge rate" means the amount of any surcharge expressed as a percentage of the computed premium rate or as a dollar amount surcharge, if a percentage surcharge is not used.

Subd. 2. **Disclosure to applicants.** Before accepting the initial premium payment, an insurer or its agent shall provide a surcharge disclosure statement to any person who applies for a policy, which is effective on or after January 1, 2011. If the insurer provides the surcharge disclosure statement on the insurer's Web site, the insurer or agent may notify the applicant orally or in writing of its availability for review on the insurer's Web site prior to accepting the initial payment, in lieu of providing a disclosure statement to the applicant in writing, if the insurer so notifies the applicant of the availability of a written version of this statement upon the applicant's request. The insurer shall provide the surcharge disclosure statement in writing if requested by the applicant. An oral notice is presumed delivered if the agent or insurer makes a contemporaneous notation in the applicant's record of the notice having been delivered or if the insurer or agent retains an audio recording of the notification provided to the applicant.

Subd. 3. **Disclosure to policyholders.** An insurer or its agent shall mail or deliver a surcharge disclosure statement or written notice of the statement's availability on the insurer's Web site to the named insured either before or with the first notice to renew a policy on or after January 1, 2011. If a surcharge disclosure statement or written Web site notice has been provided pursuant to subdivision 2, no surcharge disclosure statement is required to be mailed or delivered to the same named insured pursuant to subdivision 3.

Subd. 4. **Notification of change.** No insurer may change its surcharge plan unless a surcharge disclosure statement or written Web site notice is mailed or delivered to the named insured before the change is made. A surcharge disclosure statement disclosing a change applicable on the renewal of a policy may be mailed with an offer to renew the policy. Surcharges cannot be applied to claims that occurred prior to a change in a surcharge plan except to the extent provided under the prior plan.

Subd. 5. **Penalty.** Failure to comply with this section constitutes a violation of section 70A.04 and is subject to the penalties prescribed in section 70A.21.

Subd. 6. **Commissioner may adopt rules.** The commissioner may adopt rules reasonably necessary to carry out and make effective this section.