

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 1208**

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| DATE | D-PG | OFFICIAL STATUS |
|------------|---------------|--|
| 04/18/2011 | 1385 | Introduction and first reading Referred to Commerce and Consumer Protection |
| 04/27/2011 | 1419a 1431 | Comm report: To pass as amended Second reading |
| 05/12/2011 | 2003a | General Orders: To pass as amended |
| 05/14/2011 | 2040 | Calendar: Third reading Passed |
| 05/21/2011 | 3037 | Returned from House Presentment date 05/23/11 |
| | 3579 | Governor's action Approval 05/24/11 |
| | 3579 | Secretary of State Chapter 61 05/24/11 Effective date Sec. 1-7, 9 08/01/11; Sec. 8 05/25/11 |

A bill for an act

1.1 relating to commerce; providing notice to a mortgagor under certain
1.2 circumstances; modifying a definition; regulating life insurance and title
1.3 insurance reserves; regulating certain accounts and funding agreements;
1.4 repealing obsolete and conflicting provisions; making conforming changes;
1.5 repealing a bank rule; amending Minnesota Statutes 2010, sections 60A.60,
1.6 subdivision 9; 60C.03, subdivision 6; 61A.25, subdivision 4; 61A.282,
1.7 subdivision 2; 68A.03, subdivision 3; 72A.31, subdivision 1; proposing coding
1.8 for new law in Minnesota Statutes, chapter 58; repealing Minnesota Statutes
1.9 2010, sections 61A.275; 61A.276, subdivision 4; 67A.27; 67A.28; 67A.29;
1.10 67A.30, subdivisions 1, 3; 67A.31; 67A.32; 67A.34; 67A.35; 67A.36; 67A.37;
1.11 67A.38; 67A.39; Minnesota Rules, part 2675.2170, item F.
1.12

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

1.14 Section 1. **[58.162] TRANSACTION AGENTS OR SERVICERS; DISCLOSURE**
1.15 **OF NOTE OWNER INFORMATION TO MORTGAGOR.**

1.16 Upon written request of a mortgagor, a transaction agent or servicer shall provide
1.17 in writing to the mortgagor the identity, address, and telephone number of the current
1.18 owner of the note secured by the mortgage, based on the transaction agent's or servicer's
1.19 actual knowledge. A transaction agent or servicer must provide the information within ten
1.20 business days of receipt of the request. Upon request of a mortgagor, a transaction agent
1.21 or servicer must provide this information about the current owner of the note without a
1.22 fee once per calendar year. In lieu of complying with this section, a transaction agent or
1.23 servicer may comply with the requirements of section 6(k) of the Real Estate Settlement
1.24 Procedures Act, as amended by section 1463 of Public Law 111-203, regardless of whether
1.25 those acts apply to the mortgage.

1.26 Sec. 2. Minnesota Statutes 2010, section 60A.60, subdivision 9, is amended to read:

2.1 Subd. 9. **Negative trend.** "Negative trend" means, ~~with respect to a life and/or~~
2.2 ~~health insurer,~~ negative trend over a period of time, as determined according to the "trend
2.3 test calculation" included in the risk-based capital instructions.

2.4 Sec. 3. Minnesota Statutes 2010, section 60C.03, subdivision 6, is amended to read:

2.5 Subd. 6. **Member insurer.** "Member insurer" means any person, including
2.6 reciprocals or interinsurance exchanges operating under chapter 71A, township mutual
2.7 fire insurance companies operating under sections 67A.01 to 67A.26, ~~and farmers mutual~~
2.8 ~~fire insurance companies operating under sections 67A.27 to 67A.39,~~ who (a) writes any
2.9 kind of insurance not excepted from the scope of this chapter by section 60C.02, and
2.10 (b) is licensed to transact insurance business in this state, except any nonprofit service
2.11 plan incorporated or operating under sections 62C.01 to 62C.23 and any health plan
2.12 incorporated under chapter 317A, and includes an insurer whose license or certificate of
2.13 authority in this state may have been suspended, revoked, not renewed, or voluntarily
2.14 withdrawn.

2.15 An insurer ceases to be a member insurer the day following the termination or
2.16 expiration of its license to transact the kinds of insurance to which this chapter applies.
2.17 The insurer remains liable as a member insurer for any and all obligations, including
2.18 obligations for assessments levied before the termination or expiration with respect
2.19 to an insurer that became an insolvent insurer before the termination or expiration of
2.20 the insurer's license.

2.21 Sec. 4. Minnesota Statutes 2010, section 61A.25, subdivision 4, is amended to read:

2.22 Subd. 4. **Reserve valuation of life insurance and endowment benefits; modified**
2.23 **premiums.** (a) Except as otherwise provided in paragraph (b) and subdivisions 4a and 7,
2.24 reserves according to the commissioners reserve valuation method, for the life insurance
2.25 and endowment benefits of policies providing for a uniform amount of insurance and
2.26 requiring the payment of uniform premiums shall be the excess, if any, of the present value
2.27 at the date of valuation of future guaranteed benefits provided for by the policies over
2.28 the then present value of any future modified net premiums therefor. The modified net
2.29 premiums for a policy shall be the uniform percentage of the respective contract premiums
2.30 for the benefits that the present value, at the date of issue of the policy, of all the modified
2.31 net premiums shall be equal to the sum of the then present value of the benefits provided
2.32 for by the policy and the excess of clause (1) over clause (2) as follows:

2.33 (1) a net level annual premium equal to the present value, at the date of issue, of the
2.34 benefits provided for after the first policy year, divided by the present value at the date of

3.1 issue of an annuity of one per annum payable on the first and each subsequent anniversary
3.2 of the policy on which a premium falls due; but the net level annual premium shall not
3.3 exceed the net level annual premium on the 19 year premium whole life plan for insurance
3.4 of the same amount at an age one year higher than the age at issue of the policy;

3.5 (2) a net one year term premium for the benefits provided for in the first policy year.

3.6 (b) For a life insurance policy issued on or after January 1, 1985, for which the
3.7 contract premium in the first policy year exceeds that of the second year and for which
3.8 no comparable additional benefit is provided in the first year for the excess and which
3.9 provides an endowment benefit or a cash surrender value or a combination thereof in an
3.10 amount greater than the excess premium, the reserve according to the commissioners
3.11 reserve valuation method as of a policy anniversary occurring on or before the assumed
3.12 ending date defined herein as the first policy anniversary on which the sum of any
3.13 endowment benefit and any cash surrender value then available is greater than the excess
3.14 premium shall, except as otherwise provided in subdivision 7, be the greater of the reserve
3.15 as of the policy anniversary calculated as described in paragraph (a) and the reserve as
3.16 of the policy anniversary calculated as described in that paragraph, but with the value
3.17 defined in clause (1) of that paragraph being reduced by 15 percent of the amount of the
3.18 excess first year premium; all present values of benefits and premiums being determined
3.19 without reference to premiums or benefits provided for by the policy after the assumed
3.20 ending date; the policy being assumed to mature on that date as an endowment; and the
3.21 cash surrender value provided on that date being considered as an endowment benefit.
3.22 In making the above comparison the mortality and interest bases stated in subdivisions
3.23 3 and 3b shall be used.

3.24 (c) Reserves according to the commissioners reserve valuation method for (1) life
3.25 insurance policies providing for a varying amount of insurance or requiring the payment
3.26 of varying premiums, (2) group annuity and pure endowment contracts purchased under
3.27 a retirement plan or plan of deferred compensation, established or maintained by an
3.28 employer, including but not limited to a partnership or sole proprietorship, or by an
3.29 employee organization, or by both, other than a plan providing individual retirement
3.30 accounts or individual retirement annuities under Section 408 of the Internal Revenue
3.31 Code, as amended, (3) disability and accidental death benefits in all policies and contracts,
3.32 and (4) all other benefits, except life insurance and endowment benefits in life insurance
3.33 policies and benefits provided by all other annuity and pure endowment contracts, shall be
3.34 calculated by a method consistent with the principles of paragraphs (a) and (b), except
3.35 that any extra premiums charged because of impairments or special hazards shall be
3.36 disregarded in the determination of modified net premiums.

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4.1 (d) For a universal life insurance policy that guarantees coverage to remain in
4.2 force as long as the accumulation of premiums paid satisfies a secondary guarantee
4.3 requirement, reserves according to the commissioners reserve valuation method may be
4.4 calculated using a lapse assumption only in accordance with and in the circumstances
4.5 described in the National Association of Insurance Commissioners' accounting practices
4.6 and procedures manual ~~for policies issued on or after January 1, 2007, and on or before~~
4.7 ~~December 31, 2010.~~

4.8 Sec. 5. Minnesota Statutes 2010, section 61A.282, subdivision 2, is amended to read:

4.9 Subd. 2. **Lending of securities.** A company may loan securities held by it under this
4.10 chapter to a broker-dealer registered under the Securities and Exchange Act of 1934 or to
4.11 a bank which is a member of the Federal Reserve System, under the following conditions:

4.12 (a) The market value of loaned securities outstanding at any one time, excluding
4.13 securities held in a separate account established pursuant to section 61A.14, subdivision
4.14 1, ~~or 61A.275~~, shall not exceed 40 percent of the company's admitted assets as of the
4.15 December 31 immediately preceding.

4.16 (b) The company is limited to no more than two percent of its admitted assets as
4.17 of the December 31 immediately preceding being subject to lending of securities with
4.18 any one borrower.

4.19 (c) Each loan must be evidenced by a written agreement which provides:

4.20 (1) that the loan will be fully collateralized by cash or obligations issued or
4.21 guaranteed by the United States or an agency or an instrumentality thereof, and that the
4.22 collateral will be adjusted each business day during the term of the loan to maintain
4.23 the required collateral in the event of market value changes in the loaned securities or
4.24 collateral;

4.25 (2) that the loan may be terminated by the company at any time, and that the
4.26 borrower must return the loaned securities or their equivalent within five business days
4.27 after termination;

4.28 (3) that the company has the right to retain the collateral or to use the collateral to
4.29 purchase securities equivalent to the loaned securities if the borrower defaults under
4.30 the terms of the agreement; and

4.31 (4) that the borrower remains liable for any losses and expenses, not covered by the
4.32 collateral, which are incurred by the company due to default.

4.33 Sec. 6. Minnesota Statutes 2010, section 68A.03, subdivision 3, is amended to read:

5.1 Subd. 3. **Statutory premium reserve.** (a) A title insurer shall establish and
5.2 maintain a statutory premium reserve consisting of:

5.3 (1) the amount of statutory premium reserve required by the laws of the domiciliary
5.4 state of the insurer if the insurer is a foreign or non-U.S. title insurer; or

5.5 (2) if the insurer is a domestic title insurer of this state, a statutory or unearned
5.6 premium reserve consisting of:

5.7 (i) the amount of the statutory or unearned premium or reinsurance reserve legally
5.8 held on January 1, 2004, which balance must be released according to the law in effect at
5.9 the time the sums were added to the reserve, all as set forth in section 68A.02; and

5.10 (ii) after January 1, 2004, and until December 31, 2009, a sum equal to a minimum
5.11 of eight percent of the ~~following items:~~ total of subitems (A) and (B). After January 1,
5.12 2010, a sum equal to a minimum of 6.5 percent of the total of subitems (A) and (B):

5.13 (A) direct risk premiums written; and

5.14 (B) premiums for reinsurance assumed, plus other income, less premiums for
5.15 reinsurance ceded as set forth in schedule P of the title insurer's most recent annual
5.16 statement filed with the commissioner.

5.17 (b) The aggregate of the amounts set aside in this reserve in any calendar year
5.18 pursuant to paragraph (a), clause (2), item (ii), must be released from the reserve and
5.19 restored to net profits over a period of 20 years at an amortization rate not to exceed the
5.20 following formula: 35 percent of the aggregate sum on July 1 of the year next succeeding
5.21 the year of addition; 15 percent of the aggregate sum on July 1 of each of the succeeding
5.22 two years; ten percent of the aggregate sum on July 1 of the next succeeding year; three
5.23 percent of the aggregate sum on July 1 of each of the next three succeeding years; two
5.24 percent of the aggregate sum on July 1 of each of the next three succeeding years; and one
5.25 percent of the aggregate sum on July 1 of each of the next succeeding ten years.

5.26 (c) The insurer shall calculate an adjusted statutory or unearned premium reserve
5.27 as of the year of first application of paragraph (a), clause (2), item (ii). The adjusted
5.28 reserve must be calculated as if paragraph (a), clause (2), item (ii), had been in effect for
5.29 all years beginning 20 years before the year of first application of paragraph (a), clause
5.30 (2), item (ii). For purposes of this calculation, the balance of the reserve as of that date is
5.31 considered to be zero. If the adjusted reserve so calculated exceeds the aggregate amount
5.32 set aside for statutory or unearned premiums in the insurer's most recent annual statement
5.33 filed with the commissioner, the insurer shall, out of total charges for policies of title
5.34 insurance, increase its statutory or unearned premium reserve by an amount equal to
5.35 one-sixth of that excess in each of the succeeding six years, beginning with the calendar

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6.1 year that includes the year of first application of paragraph (a), clause (2), item (ii), until
6.2 the entire excess has been added.

6.3 (d) The aggregate of the amounts set aside in this reserve in any calendar year as
6.4 adjustments to the insurer's statutory or unearned premium reserve pursuant to paragraph
6.5 (c) must be released from the reserve and restored to net profits, or equity if the additions
6.6 required by paragraph (c) reduced equity directly, over a period not exceeding ten years
6.7 pursuant to the following table:

| 6.8 | Year of addition | Release |
|------|------------------|--------------------------|
| 6.9 | Year 1* | Equally over ten years |
| 6.10 | Year 2 | Equally over nine years |
| 6.11 | Year 3 | Equally over eight years |
| 6.12 | | Equally over seven |
| 6.13 | Year 4 | years |
| 6.14 | Year 5 | Equally over six years |
| 6.15 | Year 6 | Equally over five years |

6.16 *The calendar year following the year of first application of paragraphs (a), clause
6.17 (2), item (ii), (b), and (c).

6.18 (e) A supplemental reserve must be established consisting of any other reserves
6.19 necessary, when taken in combination with the reserves required by this section and
6.20 section 68A.02, to cover the company's liabilities with respect to all losses, claims, and
6.21 loss adjusted expenses.

6.22 (f) Each title insurer subject to the provisions of this chapter shall file with its annual
6.23 statement, required under section 60A.13, subdivision 1, a certification by a member in
6.24 good standing of the American Academy of Actuaries. The actuarial certification required
6.25 of a title insurer must conform to the National Association of Insurance Commissioners'
6.26 annual statement instructions for title insurers.

6.27 Sec. 7. Minnesota Statutes 2010, section 72A.31, subdivision 1, is amended to read:

6.28 Subdivision 1. **Real and personal property financing; prohibited acts by**
6.29 **businesses.** No person, firm or corporation engaged in the business of financing the
6.30 purchase of real or personal property or of lending money on the security of real or
6.31 personal property or who acts as agent or broker for one who purchases real property and
6.32 borrows money on the security thereof, and no trustee, director, officer, agent or other
6.33 employee of any such person, firm, or corporation shall directly or indirectly:

6.34 (1) require, as a condition precedent to such purchase or financing the purchase
6.35 of such property or to loaning money upon the security of a mortgage thereon, or as a
6.36 condition prerequisite for the renewal or extension of any such loan or mortgage or for the

7.1 performance of any other act in connection therewith, that the person, firm or corporation
7.2 making such purchase or for whom such purchase is to be financed or to whom the money
7.3 is to be loaned or for whom such extension, renewal or other act is to be granted or
7.4 performed negotiate any policy of insurance or renewal thereof covering such property
7.5 through a particular agent, or insurer, or

7.6 (2) refuse to accept any policy of insurance covering such property because it was
7.7 not negotiated through or with any particular agent, or insurer, or

7.8 (3) refuse to accept any policy of insurance covering the property issued by an
7.9 insurer that is a member insurer as defined by section 60C.03, subdivision 6, or

7.10 (4) require any policy of insurance covering the property to exceed the replacement
7.11 cost of the buildings on the mortgaged premises.

7.12 This section shall not prevent the disapproval of the insurer or a policy of insurance
7.13 by any such person, firm, corporation, trustee, director, officer, agent or employee where
7.14 there are reasonable grounds for believing that the insurer is insolvent or that such
7.15 insurance is unsatisfactory as to placement with an unauthorized insurer, adequacy of
7.16 the coverage, adequacy of the insurer to assume the risk to be insured, the assessment
7.17 features to which the policy is subject, or other grounds which are based on the nature of
7.18 the coverage and which are not arbitrary, unreasonable or discriminatory, nor shall this
7.19 section prevent a mortgage lender or mortgage servicer from requiring that a policy of
7.20 insurance or renewal thereof be in conformance with standards of the Federal National
7.21 Mortgage Association or the Federal Home Loan Mortgage Corporation, nor shall this
7.22 section forbid the securing of insurance or a renewal thereof at the request of the borrower
7.23 or because of the borrower's failure to furnish the necessary insurance or renewal thereof.
7.24 For purposes of this section, "insurer" includes a township mutual fire insurance company
7.25 operating under sections 67A.01 to 67A.26 ~~and a farmers mutual fire insurance company~~
7.26 ~~operating under sections 67A.27 to 67A.39.~~

7.27 Upon notice of any such disapproval of or refusal to accept an insurer or a policy of
7.28 insurance, the commissioner may order the approval of the insurer or the acceptance of the
7.29 tendered policy of insurance, or both, if the commissioner determines such disapproval
7.30 or refusal to accept is not in accordance with the foregoing requirements. Failure to
7.31 comply with such an order of the commissioner of commerce shall be deemed a violation
7.32 of this section.

7.33 **Sec. 8. RULE REPEALER; RESTRICTING THE CAPITALIZATION OF**
7.34 **PERMANENT IMPROVEMENTS TO OTHER REAL ESTATE OWNED BY A**
7.35 **BANK.**

8.1 Minnesota Rules, part 2675.2170, item F, is repealed.

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

8.3 Sec. 9. **REPEALER.**

8.4 Minnesota Statutes 2010, sections 61A.275; 61A.276, subdivision 4; 67A.27;
8.5 67A.28; 67A.29; 67A.30, subdivisions 1 and 3; 67A.31; 67A.32; 67A.34; 67A.35;
8.6 67A.36; 67A.37; 67A.38; and 67A.39, are repealed.