

membership chairman or a member of the board showing the basis of membership;

- (2) To determine interest rates on loans and on deposits;
- (3) To fix the amount of the surety bond which shall be required of all officers and employees handling money;
- (4) To declare dividends, and to transmit to the members, recommended amendments to the bylaws;
- (5) To fill vacancies in the board and in the credit committee until successors are chosen and qualify at the next annual meeting;
- (6) To determine the maximum individual share holdings, the maximum amount of deposits, and the maximum individual loan which can be made with and without security, including liability indirectly as a co-maker, guarantor, or endorser;
- (7) To have charge of investments other than loans to members;
- (8) To fix the salaries of the treasurer and other employees, which shall be on a fixed monthly or annual basis, in dollars (not percentage);
- (9) To designate the bank or banks in which the funds of the credit union shall be deposited; and
- (10) To authorize the officers of the credit union to borrow money from any source, in a total sum which shall not exceed in the aggregate 40 percent of its unimpaired assets.

Approved April 30, 1963.

CHAPTER 385—H. F. No. 286

[Coded]

An act relating to regulation and supervision of the placement of surplus line insurance.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **[60.931] Surplus line insurance; purpose clause.** Insurance transactions with unauthorized insurers are so affected with a public interest as to require regulation, taxation, supervision and control as provided in this act in order to: protect the citizens of this state in transactions involving the purchase of

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insurance from insurers not authorized to transact business in this state; provide for the public an orderly, reasonable, and regulated access to insurance from unauthorized insurers, where necessary, through qualified licensed and supervised surplus line agents; protect the revenues of this state; protect regulated authorized insurers from unregulated and unfair competition by unauthorized insurers; and regulate and supervise the procurement from unauthorized insurers in accordance with the laws of this state and Public Law 15 known as the McCarran Act.

Sec. 2. [60.932] Surplus line insurance, conditions to procurement. If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated surplus line, may be procured from unauthorized insurers through a licensed surplus line agent, subject to the following conditions:

(1) The full amount of insurance required must not be procurable, after diligent effort has been made to do so from among the insurers who are authorized to transact and are actually writing the particular kind and class of insurance in this state, and the amount of insurance eligible for an unauthorized insurer is only the excess over the amount procurable from authorized insurers.

(2) The insurance must not be so procured for the purpose of securing advantages, either as to:

(a) A lower premium rate than would be accepted by an authorized insurer, or

(b) Terms of the insurance contract.

Sec. 3. [60.933] Surplus line affidavit. At the time each surplus line insurance contract is procured, the surplus line agent shall execute an affidavit setting forth facts from which it may be determined whether the requirements of section 2 above have been met. Such affidavit shall be filed with the commissioner within 30 days after each surplus line contract is placed.

Sec. 4. [60.934] Endorsement of policy. Each insurance contract, cover note, or certificate of insurance procured as a surplus line coverage shall have stamped upon it and be initialed by or bear the name of the surplus line agent who procured it, the following:

“This contract is delivered as a surplus line coverage under the Surplus Line Insurance Law and this insurer is not licensed to do business in Minnesota.”

Sec. 5. [60.935] Surplus line insurance valid. Insur-

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ance contracts procured as surplus line coverages from unauthorized insurers in accordance with this act shall be valid and enforceable and the provisions of policies shall be at least as favorable to the insured as any standard policy described by the laws of this state.

Sec. 6. [60.936] Licensing of surplus line agent; fee; bond. Any person, while licensed as a resident insurance agent of this state as to property, casualty, and surety insurances, and who is deemed by the commissioner to be qualified therefor by insurance experience and to be trustworthy, may be licensed as a surplus line agent as follows:

(1) Application to the commissioner for the license shall be made on forms furnished by the commissioner.

(2) License fee in the amount of \$50 shall be paid to the commissioner. The license shall expire on May 31 of each year.

Prior to the issuance of license, the applicant shall file with the commissioner, and maintain thereafter for as long as any such license remains in force, a bond, with an authorized corporate surety approved by the commissioner, in favor of the commissioner, in the penal sum of not less than \$5,000 conditioned upon compliance with this act. The commissioner may, in his discretion, require a bond in a larger amount commensurate with the volume of surplus line business transacted or to be transacted by a particular surplus line agent. The aggregate liability of the surety for any and all claims on any such bond shall, in no event, exceed the penal sum thereof. No such bond shall be terminated unless not less than 30 days prior written notice thereof shall be given to the licensee and filed with the commissioner.

Sec. 7. [60.937] Surplus line in solvent insurers. No surplus line agent shall procure surplus line insurance contracts from any unauthorized insurer unless the unauthorized insurer meets either of the following requirements:

(1) The unauthorized insurer is an authorized insurer in at least one state of the United States for the kind of insurance involved, and which, if a stock insurer, has capital stock and surplus of at least \$350,000, or, if any other type of insurer, has surplus of at least \$350,000; or

(2) The unauthorized insurer, other than one qualified under (1) above, has an established and effective trust fund of at least \$400,000 within the United States, administered by a recognized financial institution and held for the benefit of all its policy-holders

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in the United States or policy-holders and creditors in the United States.

An unauthorized insurer assuming any surplus line risk pursuant to this surplus line law shall within 30 days thereafter file with the commissioner a duly executed and sworn affidavit showing facts in support of its qualification under either (1) or (2) above, except that requirement (2) may otherwise be sufficiently evidenced by an affidavit of the trustee institution filed with the commissioner showing the requisite facts and renewed from time to time as the commissioner may reasonably require to reflect the current condition of the trust fund, and any such trustee's affidavit properly filed and maintained shall be sufficient as to all risks placed with that unauthorized insurer pursuant to this surplus line law.

Provided that the foregoing limitations may be waived upon filing with the commissioner a signed statement of the insured requesting insurance in an unauthorized insurer which does not meet the requirements of this subsection.

If at any time the commissioner shall determine, in his judgment, that an unauthorized insurer is not in a safe or solvent financial condition, or has refused to pay just claims, he shall direct that no such insurance shall be placed with such insurer; and upon his written notice to that effect mailed to licensees under this sub-title, thereafter no insurance shall be placed with such insurer.

Notwithstanding any provision of this subsection, the placement by a surplus line agent of insurance with an unauthorized insurer, pursuant to the general authority and provisions of this act, shall not imply approval by the commissioner of such insurer's financial condition or mode of operation.

Sec. 8. [60.938] Evidence of the insurance; changes; penalty.

Subdivision 1. Upon placing a surplus line coverage, the surplus line agent shall promptly issue and deliver to the insured evidence of the insurance, consisting either of the policy as issued by the insurer, or, if such policy is not then available, a certificate of insurance or cover note signed or countersigned by the agent. Such certificate or cover note shall show the subject, coverage, conditions, and term of the insurance, the premium charged and taxes collected from the insured, and the name and address of the insurer. If the direct risk is assumed by more than one insurer, the certificate or cover note shall state the name and address and proportion of the entire direct risk assumed by each such insurer.

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Subd. 2. If, after the issuance and delivery of any such certificate or cover note, there is any change as to the identity of the insurers, or the proportion of the direct risk assumed by the insurer as stated in the original certificate or cover note, or in any other material respect as to the insurance coverage evidenced by the certificate or cover note, the agent shall promptly issue and deliver to the insured a substitute certificate or cover note accurately showing the current status of the coverage and the insurers responsible thereunder.

Subd. 3. If a policy issued by the insurer is not available upon placement of the insurance and the agent has issued and delivered a certificate or cover note as hereinabove provided, upon request therefor by the insured, the agent shall, as soon as reasonably possible, procure from the insurer its policy evidencing such insurance and deliver such policy to the insured in replacement of the certificate or cover note theretofore issued.

Subd. 4. Any surplus line agent who knowingly or negligently issues or delivers a false certificate or cover note of insurance, or fails promptly to notify the insured of any material change with respect to such insurance by delivery to the insured of a substitute certificate or cover note as provided in subdivision 2 shall be guilty of a violation of this code, and, upon conviction, shall be subject to the penalties provided by section 13 of this act, or to any greater applicable penalty otherwise provided by law.

Sec. 9. [60.939] **Liability of insurer as to losses and unearned premiums.** As to a surplus line risk which has been assumed by an unauthorized insurer pursuant to this surplus line insurance law, and if the premium thereon has been received by the surplus line agent who placed such insurance, in all questions thereafter arising under the coverage as between the insurer and the insured, the insurer shall be deemed to have received the premium due to it for such coverage; and the insurer shall be liable to the insured as to losses covered by such insurance, and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not, in fact, the agent is indebted to the insurer with respect to such insurance or for any other cause. This provision shall not affect rights as between the insurer and the surplus line agent.

Sec. 10. [60.94] **Records and semi-annual report.**

Subdivision 1. Each surplus line agent shall keep a separate record and account of all business transacted under his surplus line license, including a copy of each daily report, if any, and of each binder or cover note delivered by him. The records shall

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be available for examination by the commissioner at any reasonable time within the policy period, and shall be retained for at least three years following the termination of the coverage to which the records relate.

Subd. 2. Within 60 days following December 31 and June 30 of each year, the agent shall file with the commissioner a semi-annual statement which reports the following:

- (a) Name and address of each insured for whom surplus line insurance was procured;
- (b) Name and home office of each insurer providing such insurance;
- (c) Amount of each coverage, the premium rate and gross premiums charged;
- (d) Date and term of policy;
- (e) Amount of premium returned on each policy cancelled or not taken, and
- (f) Such additional information as the commissioner may reasonably require.

Sec. 11. **[60.941] Surplus line tax.** The premiums charged for surplus line insurance are subject to a premium receipts tax of two percent on all gross premiums, less any return premiums charged for such insurance. The surplus line agent shall charge the insured the amount of the tax at the time of delivery of the policy or other initial confirmation of insurance, in addition to the full amount of the gross premium charged by the insurer for the insurance; provided, however, that the tax on any unearned portion of the premium shall be returned to the policy-holder by the surplus line agent. The surplus line agent is prohibited from absorbing such tax, or as an inducement for insurance, or for any other reason, rebating all or any part of such tax or all or any part of his commission.

Within 60 days following December 31 and June 30 of each year, the surplus line agent shall pay to the commissioner the amount of premium receipts taxes due upon business done during the semi-annual period ending December 31 and June 30 of each year.

If the surplus line policy covers risks or exposures only partially in this state, the tax payable shall be computed on the portion of the premium which is properly allocated to the risks or exposures located in this state.

Sec. 12. **[60.942] Penalty for failure to file statement or**
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pay tax. Every surplus line agent who fails to make and file the semi-annual statement as required under section 10, or to pay the taxes as required under section 11, shall be liable to a penalty of \$25 for each seven days of delinquency, together with interest at the rate of six percent on any unpaid premium tax which is delinquent from the date of such delinquency. The tax and penalty may be recovered in an action instituted by the commissioner in the name of the state in any court of competent jurisdiction, the attorney general representing him. The surplus line agent's license shall also be subject to revocation as provided in section 13.

Sec. 13. [60.943] Revocation or suspension of agent's license.

Subdivision 1. The commissioner may revoke or suspend all licenses held by a surplus line agent.

(a) If the agent fails to file his semi-annual statement or to remit the tax, as required by law;

(b) If the agent fails to keep the records or to allow the commissioner to examine his records, as required by law;

(c) If the agent fails to file or falsifies the affidavit required by section 3; or

(d) For any of the causes for which an insurance agent's license may be revoked or suspended.

Subd. 2. No agent whose licenses have been so revoked or suspended shall again be so licensed until all penalties and delinquent taxes owing by him have been paid.

Sec. 14. [60.944] Service of process. No surplus line agent shall procure contracts from any unauthorized insurer unless: Such unauthorized insurer shall, prior to the time any risk is assumed, file with the commissioner a duly executed instrument whereby the unauthorized insurer shall appoint and constitute the commissioner the true and lawful attorney of such unauthorized insurer upon whom all lawful process in any action or legal proceeding against it may be served, and shall agree that any such lawful process against it, which may be served upon its said attorney as provided in this subsection, shall be of the same force and validity as if served upon the unauthorized insurer and that authority thereof shall continue in force irrevocably so long as any liability of the unauthorized insurer in this state shall remain outstanding. Such instrument shall designate therein, irrevocably, but with full power of substitution, so long as any liability of the unauthorized insurer in this state shall

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remain outstanding, a resident of the state to whom a copy of such process shall be forwarded by the commissioner by fully prepaid registered or certified mail. Upon the mailing of such copy and receipt thereof, the service of such process shall be complete. The provisions of the unauthorized insurers process act, Minnesota Statutes 1961, Sections 60.921 to 60.926, shall, to the extent not inconsistent herewith, be applicable in connection with such service of process.

Sec. 15. [60.945] Rules and regulations. The commissioner shall make or may approve and adopt reasonable rules and regulations for the effectuation of this act.

Sec. 16. [60.946] Authorized insurers. Any authorized insurer, upon submission of an affidavit to the commissioner setting forth facts which show that it is competing for a specific risk with a named unauthorized insurer, may issue a policy without regard to rate and form requirements otherwise applicable; provided that the provisions of policies shall be at least as favorable to the insured as any standard policy described by the laws of this state. Insurance issued by authorized insurers under the provisions of this section shall be considered for the purposes of regulation and taxation as authorized insurance rather than surplus line insurance.

Sec. 17. [60.947] Exemptions from surplus line act. The provisions of this act, controlling the placing of insurance with unauthorized insurers, shall not apply to life insurance, health insurance, annuities, or reinsurance, nor to the following insurance when so placed by a licensed agent of this state:

(1) Insurance on subjects located, resident, or to be performed wholly outside of this state.

(2) Insurance on the property or operations of aircraft or railroads engaged in transportation in interstate and foreign commerce.

(3) Insurance of vessels, crafts or hulls, cargoes, marine builders' risks, marine protection and indemnity, or other risks including strikes and war risks commonly insured under ocean or wet marine forms of policies.

Sec. 18. Constitutionality. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or

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application, and to this end the provisions of this act are declared to be severable.

Approved April 30, 1963.

CHAPTER 386—H. F. No. 298

[Coded]

An act to give the commissioner of conservation power to mark canoe routes and develop camp sites and enter into agreements with agencies and private owners for use of lands on the Little Fork, Big Fork, Minnesota and St. Croix Rivers.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **[85.32] Canoe routes.** Subdivision 1. **Areas marked.** The commissioner of conservation is authorized to mark canoe routes on the Little Fork, Big Fork, Minnesota and St. Croix rivers which have historic and scenic values and to mark appropriately points of interest, portages, camp sites, and all dams, rapids, waterfalls, whirlpools, and other serious hazards which are dangerous to canoe and watercraft travelers.

Subd. 2. **Camp sites and portages, land acquisition.** The commissioner may take by easements and by leases, land for camp sites and portages and develop and maintain such camp sites and portages along such routes on the Little Fork, Big Fork, Minnesota and St. Croix rivers from funds appropriated to the division of state parks.

Subd. 3. **Dedication, application of statute.** Portages, canoe routes, and camp sites designated and marked under this act shall not be subject to the provisions of Minnesota Statutes 1961, Section 160.06.

Approved April 30, 1963.

CHAPTER 387—H. F. No. 440

An act relating to expenses and compensation of certain officials; providing uniform mileage allowances of seven and one half cents and reimbursement of expenses for county commissioners; amending Minnesota Statutes 1961, Sections 203.42, 274.15, 282.19, and 375.06.

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