

apply to such holdings providing the acquiring company secures the prior approval of the purchase agreement by the commissioner.

Subd. 2. Organization of subsidiary insurance company. A domestic stock company of any kind, including a life insurance company, may organize and hold all or part of the capital stock of another insurance company whether or not in the same line of insurance. The limits contained in the investment sections of the insurance code shall not apply to such holdings providing the organizing company secures the prior approval of the commissioner.

Subd. 3. Additional investments. The funds of any insurance company or fraternal beneficiary association, organized under the laws of this state or licensed to do business therein, in addition to the investments already authorized by law, may be invested in federal farm loan bonds, or, if approved by the commissioner, in loans upon leasehold estates in improved real property for a term of 99 years or more where 40 years or more of the term is unexpired and where unencumbered except by rentals accruing therefrom to the owner of the fee, and where the mortgagee is entitled to be subrogated to all the rights under the leasehold; provided, that no loan on such real property or such leasehold estate shall exceed 50 percent of the fair market value thereof at the time of such loan, and a certificate of the value of such property shall be executed before making such loan by the person or persons making or authorizing such loan on behalf of the corporation, which certificate shall be recorded on the books of the company.

Approved May 18, 1967.

CHAPTER 590—H. F. No. 2260

[Coded]

An act relating to insurance; prohibiting transaction of insurance business by unauthorized insurers and providing for service of process on such unauthorized insurers; providing penalties; repealing Minnesota Statutes 1965, Sections 72.41 to 72.47.

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

Section 1. [72A.40] **Insurance; unauthorized insurers; service of process; purpose.** The legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued or delivered in this state by insurers not authorized

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to do insurance business in this state. The legislature further declares that it desires to protect residents of this state against acts by insurers not authorized to do an insurance business in this state, to maintain fair and honest insurance markets, to protect the premium tax revenues of this state, to protect authorized insurers who are subject to strict regulation from unfair competition by unauthorized insurers, and to protect against the evasion of the insurance regulatory laws of this state. In furtherance of the state interest, the legislature herein provides a method for substituted service of process upon unauthorized insurers. The legislature declares that in so doing it exercises its power to protect residents of this state and to define what constitutes doing an insurance business in this state, and also exercises powers and privileges available to this state by virtue of Public Law 79-15, 59 Statutes at Large 33, as amended, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

Sec. 2. [72A.41] Transacting business without certificate of authority prohibited. Subdivision 1. It shall be unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this state, as set forth in subdivision 2 of this section, without a certificate of authority from the commissioner; provided that this subdivision shall not apply to: (a) contracts of insurance procured by agents under the authority of sections 60.931 to 60.947; (b) contracts of reinsurance and contracts of ocean or wet marine and transportation insurance; (c) transactions in this state involving a policy lawfully solicited, written and delivered outside of this state covering only subjects of insurance not resident, located or expressly to be performed in this state at the time of issuance and which transactions are subsequent to the issuance of such policy; (d) transactions in this state involving group or blanket insurance and group annuities where the master policy of such groups was lawfully issued and delivered in a state in which the company was authorized to do an insurance business; (e) transactions in this state involving a policy of insurance or annuity issued prior to July 1, 1967; or (f) contract of insurance procured under the authority of section 71.24; or (g) transactions in this state involving contracts of insurance covering property or risks not located in this state.

Subd. 2. Any of the following acts in this state, effected by mail or otherwise by an unauthorized insurer, shall be included among those deemed to constitute transacting insurance business in this state: (a) the issuance or delivery of a contract of insurance or annuity to a resident of this state; (b) the solicitation of an application for such a contract; (c) the collection of a premium, member-

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ship fee, assessment or other consideration for such a contract; or (d) the transaction of any matter subsequent to the execution of such a contract and arising out of it.

Subd. 3. The failure of a company to obtain a certificate of authority shall not impair the validity of any act or contract of such company and shall not prevent such company from defending any action in any court of this state, but no company transacting insurance business in this state without a certificate of authority shall be permitted to maintain an action in any court of this state to enforce any right, claim or demand arising out of the transaction of such business until such company shall have obtained a certificate of authority. Nor shall an action be maintained in any court of this state by any successor or assignee of such company on any such right, claim or demand originally held by such company until a certificate of authority shall have been obtained by such company or by a company which has acquired all or substantially all of its assets.

Sec. 3. [72A.42] **Commissioner may enjoin unauthorized company.** Whenever the commissioner believes, from evidence satisfactory to him, that any company is violating or about to violate the provisions of section 2 of this act, the commissioner may, through the attorney general of this state, cause a complaint to be filed in the district court of Ramsey county to enjoin and restrain such company from continuing such violation or engaging therein or doing any act in furtherance thereof. The court shall have jurisdiction of the proceeding and shall have the power to make and enter an order or judgment awarding such preliminary or final injunctive relief as in its judgment is proper.

Sec. 4. [72A.43] **Service of process upon unauthorized company by commissioner.** Subdivision 1. Any act of entering into a contract of insurance or annuity as an insurer or transacting insurance business in this state as set forth in subdivision 2 of section 2 of this act by an unauthorized company is equivalent to and shall constitute an appointment by such company of the secretary of state and his successor or successors in office to be its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against it, arising out of a violation of section 2 of this act, and any of such acts shall be a signification of its agreement that any such process against it which is so served shall be of the same legal force and validity as personal service of process in this state upon such company.

Subd. 2. Service of such process shall be made by delivering and leaving with the secretary of state two copies thereof and the payment to the secretary of state of the fee prescribed by law. The

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secretary of state shall forthwith mail by registered mail one of the copies of such process to such company at its last known principal place of business, and shall keep a record of all process so served upon him. Such process shall be sufficient service upon such company provided notice of such service and a copy of the process are, within ten days thereafter, sent by registered mail by or on behalf of the commissioner to such company at its last known principal place of business, and such company's receipt, or receipt issued by the post office with which the letter is registered, and an affidavit of compliance herewith by or on behalf of the commissioner, are filed with the clerk of the court in which such action or proceeding is pending on or before the return date of such process or within such further time as the court may allow.

Subd. 3. The court in any action or proceeding in which service is made in the manner provided in subdivision 2 may, in its discretion, order such postponement as may be necessary to afford such company reasonable opportunity to defend such action or proceeding.

Nothing in this section is to be construed to prevent an unauthorized company from filing a motion to quash a writ or to set aside service thereof made in the manner provided in subdivision 2 on the ground that such unauthorized company has not done any of the acts referred to in subdivision 1.

Subd. 4. No judgment by default shall be entered in any such action or proceeding until the expiration of 30 days from the date of the filing of the affidavit of compliance.

Subd. 5. Nothing contained in this section shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon any company in any other manner now or hereafter permitted by law.

Sec. 5. **[72A.44] Penalty.** Any company that violates subdivision 1 of section 2 of this act, shall be required to pay a penalty of not less than \$100 nor more than \$1000 for each offense, to be recovered on behalf of the state.

Sec. 6. **Nonapplication of section.** This act shall not apply to any life insurance company organized and operated, without profit to any private shareholder or individual, exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual by issuing insurance and annuity contracts direct from the home office of the company and without agents or representatives in this state only to or for the benefit of the institutions and to individuals en-

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gaged in the services of the institutions; provided such company agrees to appoint the Commissioner, and his successors in office, as its attorney to receive service of legal process issued against it in Minnesota, such appointment to be irrevocable and to bind the company and any successors in interest and to remain in effect as long as there is in force in this state any contract made by that company or any obligation arising therefor; nor shall this act apply to any insurance or annuity contracts issued by such a life insurance company.

Sec. 7. Minnesota Statutes 1965, Sections 72.41 to 72.47 are repealed.

Approved May 18, 1967.

CHAPTER 591—H. F. No. 2296

[Coded]

An act relating to insurance; providing for the examination of insurance companies; repealing Minnesota Statutes 1965, Section 60.08.

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

Section 1. **[60.081] Insurance; examination of companies.**
Subdivision 1. **Domestic companies.**

(1) **When examinations to be made.** The commissioner shall make a thorough examination pursuant to the requirements of this section before any domestic insurance company, including reciprocals and fraternal but excluding township mutuals, is issued its first certificate of authority and begins doing business in this state. Within six months after any such company begins doing business in this state the commissioner shall visit and examine such company and thereafter he shall visit and examine such company for three successive years; after the third successive year he shall visit and examine such company at least once every three years.

The commissioner may also examine at any other time or for any reason.

Whenever a domestic insurance company enters into a management contract or agreement which shifts or changes the management of such company or whenever ownership control of such company is changed, for the purposes of this section such company may be

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