

Sec. 10. *Minnesota Statutes 1967, Section 482.07, Subdivision 6 and Section 482.15 are repealed.*

Sec. 11. *This act is in effect from and after its final enactment.*

Approved June 4, 1969.

CHAPTER 958—H. F. No. 2848

[Coded]

An act relating to insurance; regulating the business of insurance to provide for greater competition in insurance rates and prohibiting price-fixing agreements among insurers; repealing Minnesota Statutes 1967, Chapter 70.

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

Section 1. [70A.01] **Insurance; rates; construction and purposes.** Subdivision 1. This chapter shall be liberally construed to achieve the purposes stated in subd. 2, which shall constitute an aid and guide to interpretation but not an independent source of power.

Subd. 2. The purposes of this chapter are:

(a) To protect policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory rates;

(b) To encourage, as the most effective way to produce rates that conform to the standards of par. (a), independent action by and reasonable price competition among insurers;

(c) To provide formal regulatory controls for use if independent action and price competition fail;

(d) To authorize cooperative action among insurers in the rate-making process, and to regulate such cooperation in order to prevent practices that tend to bring about monopoly or to lessen or destroy competition;

(e) To encourage efficient and economic practices.

Sec. 2. [70A.02] **Scope of application.** Subdivision 1. **Forms of insurance to which applicable.** This chapter applies to casualty insurance, to fidelity, surety and guaranty bonds, to fire

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and allied lines of insurance and to inland marine insurance, on risks or operations in this state.

Subd. 2. **Nonapplication of act.** This chapter shall not apply to:

(1) Insurance written by township or farmers' mutual insurance companies subject to the provisions of Minnesota Statutes, Chapter 67A; insurance written by companies organized pursuant to Minnesota Statutes, Section 66A.20, or to tornado, cyclone, or hurricane insurance, the consideration for which, except for policy, membership or survey fees, is paid entirely by assessments on policyholders;

(2) Reinsurance, other than joint reinsurance to the extent stated in section 16;

(3) Accident and health insurance;

(4) Insurance against loss of or damage to aircraft, including their accessories and equipment, or against liability arising out of the ownership, maintenance or use of aircraft;

(5) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;

(6) Workmen's Compensation insurance;

(7) Insurance covering any of the liability of an employer exempted from insuring his liability for compensation as provided in Minnesota Statutes, Section 176.181; and

(8) Disability and double indemnity insurance issued as part of a life insurance contract.

Subd. 3. **Exemptions.** The commissioner may exempt from any or all of the provisions of this chapter, if and to the extent that he finds their application unnecessary to achieve the purposes of this chapter;

(1) Any specified person by order, or class of persons by rule; and

(2) Any specified risk by order, or any line or kind of insurance or subdivision thereof or class of risks or combination of classes by rule.

Sec. 3. **[70A.03] Definitions.** For the purposes of this chapter, unless a different meaning is manifest from the context:

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(1) "Casualty insurance", except as excluded by subdivision 2 of section 2, means any of the kinds of insurance enumerated in Minnesota Statutes, Section 60A.06, subdivision 1, clauses (3), (5), (6), (7), (8), (9), (10), (11), (12), (13), and (14), together with similar kinds of insurance which may be written pursuant to the provisions of Minnesota Statutes, Section 60A.06, subd. 2, and, notwithstanding the provisions of Minnesota Statutes, Section 71A.07, includes insurance effected or exchanged pursuant to the provisions of Minnesota Statutes, Chapter 71A, and the term "insurers" includes all individuals, partnerships or corporations and their attorneys engaged in effecting or exchanging insurance pursuant to the provisions of those statutes.

(2) "Fire and allied lines of insurance", except as excluded by subdivision 2 of section 2, means and includes insurance against the risks of loss specified in Minnesota Statutes, 60A.06, subd. 1, clause (1), and all other kinds of insurance which fire insurance companies are now, or may hereafter be, authorized to write in this state, and, notwithstanding the provisions of Minnesota Statutes, Section 71A.07, includes insurance effected or exchanged pursuant to the provisions of Minnesota Statutes, Chapter 71A, and the term "insurers" includes all individuals, partnerships or corporations and their attorneys engaged in effecting or exchanging insurance pursuant to the provisions of those statutes.

(3) "Inland marine insurance" includes insurance now or hereafter defined by statute, or by judicial interpretation thereof, or if not so defined or interpreted, by ruling of the commissioner, or as established by general custom of the business, as inland marine insurance.

(4) "Supplementary Rate information" includes every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing, and any other information requested by the commissioner.

(5) "Rate service organization" means any person, other than an employee of an insurer, who assists insurers or other rate service organizations in rate making or filing by:

(a) Collecting, compiling and furnishing loss or expense statistics; or by

(b) Recommending, making or filing rates or supplementary rate information.

Sec. 4. [70A.04] **Rate standards.** Subdivision 1. Rates

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shall not be excessive, inadequate or unfairly discriminatory, nor shall an insurer use rates to engage in unfair price competition.

Subd. 2. Excessiveness. (a) Competitive market. Rates are presumed not to be excessive if a reasonable degree of price competition exists at the consumer level with respect to the class of business to which they apply. In determining whether a reasonable degree of price competition exists, the commissioner shall consider all relevant tests, including, but not limited to, the following:

1. The number of insurers actively engaged in the class of business.
2. The nature of rate differentials in that class of business.
3. Whether long-run profitability for insurers generally of the class of business is unreasonably high in relation to its riskiness.

(b) Non-competitive market. If such competition does not exist, rates are excessive if they are likely to produce a long-run profit that is unreasonably high in relation to the riskiness of the class of business, or if expenses are unreasonably high in relation to the services rendered.

Subd. 3. Rates are inadequate only if they will endanger the solidity of an insurer that uses them or if they are insufficient to sustain projected losses and expenses within the state. Rates are conclusively presumed to be adequate if they are sufficient to sustain projected losses and expenses within the state.

Subd. 4. One rate is unfairly discriminatory in relation to another if it clearly fails to reflect equitably the differences in expected losses, expenses and the degree of risk. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy. Rates are not unfairly discriminatory if they attempt to spread risk broadly among persons insured under a group, franchise or blanket policy.

Subd. 5. Unfair price competition exists if an insurer charges any rate for the purpose of securing an unfair competitive advantage, or if the use of the rate has or tends to have or if continued will have or tend to have the effect of destroying competition or creating a monopoly.

Sec. 5. [70A.05] Rating methods. The compliance of rates with the standards of section 4 shall be determined by considering the following matters:

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(1) **Factors in rates.** Due consideration shall be given to past and prospective loss and expense experience within and outside this state, to a reasonable provision for catastrophe hazards and contingencies, to clearly discernible trends within and outside this state, to dividends or savings allowed or returned by insurers to their policyholders, members or subscribers, and to all other relevant factors, including the judgment of underwriters and raters.

(2) **Classification.** Risks may be classified by any reasonable method for the establishment of rates and minimum premiums. Classifications may not be based on race, color, creed, or national origin. Rates thus produced may be modified for individual risks in accordance with rating plans or schedules which establish standards for measuring probable variations in hazards, expenses, or both.

(3) **Profits.** The rates may contain an allowance permitting a profit that is not unreasonable.

Sec. 6. [70A.06] **Filing requirements.** Subdivision 1. Every licensed insurer and every rate service organization licensed under section 14 shall furnish the commissioner all rates and all changes and amendments of rates made by it for use in this state not later than their effective date.

Subd. 2. No policy form shall be delivered or issued for delivery unless it has been filed with the commissioner and either (i) he has approved it or (ii) 30 days have elapsed and he has not disapproved it as misleading or violative of public policy, which period may be extended by the commissioner for an additional period not to exceed 30 days.

Subd. 3. Subdivisions 1 and 2 shall not apply to policies or rates for inland marine risks which by general custom of the business are not written according to manual rates or rating plans.

Subd. 4. The commissioner may, when he deems it necessary, require any insurer or rate service organization to furnish him with explanatory information in connection with rates and changes and amendments of rates made or recommended by it for use in this state. So far as practicable, such information shall be submitted to the commissioner within 30 days after his request.

Sec. 7. [70A.07] **Rates open to inspection.** All rates and supplementary rate information, furnished to the commissioner under this chapter shall, as soon as the rates are effective, be open to public inspection at any reasonable time.

Sec. 8. [70A.08] **Delegation of rate making and rate**

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filing authority. Subdivision 1. An insurer may itself establish rates and supplementary rate information for any or all kinds or lines of insurance or subdivisions thereof or classes of risks or combinations thereof, based on its own experience, modified by other relevant experience to achieve credibility, or it may use rates and supplementary rate information prepared by a rate service organization, with average expense factors determined by the rate service organization or with such modification for its own expense and loss experience as the credibility of that experience allows.

Subd. 2. An insurer may discharge its obligation under section 6 by giving notice to the commissioner that it uses rates and supplementary rate information prepared by a designated rate service organization, with such information about any modifications thereof as are necessary fully to inform the commissioner. The insurer's rates and supplementary rate information shall be those filed from time to time by the rate service organization, including any amendments thereto as filed, subject, however, to any modifications filed by the insurer, until the insurer gives notice to the commissioner changing or terminating the designation.

Sec. 9. [70A.09] **Assigned risks.** Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and those insurers may agree among themselves on the use of reasonable rate modifications for that insurance, those agreements and rate modifications to be subject to the approval of the commissioner.

Sec. 10. [70A.10] **Delayed effect of rates.** Subdivision 1. **Rule instituting delayed effect.** If the commissioner finds, after a hearing, that competition is not an effective regulator of the rates charged or that a substantial number of companies are competing irresponsibly through the rates charged, or that there are widespread violations of this chapter, in any kind or line of insurance or subdivision thereof or in any rating class or rating territory, he may issue a rule requiring that in the kind or line of insurance or subdivision thereof or rating class or rating territory comprehended by the finding any subsequent changes in the rates or supplementary rate information be filed with him at least 30 days before they become effective. He may extend the waiting period for not to exceed 15 additional days by written notice to the filer before the 30 day period expires.

Subd. 2. **Supporting data.** In the rule issued under subd. 1

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or in any supplementary rule, the commissioner may require the filing of supporting data as to any or all kinds or lines of insurance or subdivisions thereof or classes of risks or combinations thereof as he deems necessary for the proper functioning of the rate monitoring and regulating process. The supporting data shall include:

(a) The experience and judgment of the filer, and, to the extent it wishes or the commissioner requires, of other insurers or rate service organizations;

(b) *Its interpretation of any statistical data relied upon;*

(c) Descriptions of the actuarial and statistical methods employed; and

(d) Any other matters deemed relevant by the commissioner or the filer.

Subd. 3. Expiration of regulation. A regulation issued under subd. 1 shall expire no more than one year after issue. The commissioner may renew it after a hearing and appropriate findings as provided under subd. 1.

Subd. 4. Supporting information. Whenever a filing is not accompanied by such information as the commissioner has required under subd. 2, he may so inform the insurer and the filing shall be deemed to be made when the information is furnished.

Sec. 11. [70A.11] Disapproval of rates. Subdivision 1. **Order in event of violation.** If the commissioner finds after a hearing that a rate is not in compliance with section 4, he shall order that its use is to be discontinued on a date not less than thirty days after the order.

Subd. 2. Timing of order. The order under subd. 1 shall be issued within thirty days after the close of the hearing or within such reasonable time extension as the commissioner may fix.

Subd. 3. Approval of substituted rate. No rate replacing a disapproved rate may be used until it has been filed with the commissioner and not disapproved within thirty days thereafter, except that the rate disapproved under subd. 1, with the consent of the commissioner, or the last previous rate in effect for the insurer may be used for a period of not more than 3 months pending the approval of a substituted rate. The commissioner's order may include provision for a premium adjustment in a rate charged pending approval of a substituted rate.

Sec. 12. [70A.12] Special restrictions on individual

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insurers. The commissioner may by order require that a particular insurer shall file any or all of its rates and supplementary rate information thirty days prior to their effective date, if and to the extent that he finds after a hearing that the protection of the interests of its insureds and the public in this state requires closer supervision of its rates because of the insurer's financial condition or rating practices. He may extend the waiting period for any filing for not to exceed fifteen additional days by written notice to the insurer before the thirty day period expires. A filing not disapproved before the expiration of the waiting period shall be deemed to meet the requirements of this chapter, subject to the possibility of subsequent disapproval under section 11.

Sec. 13. [70A.13] Operation and control of rate service organizations. Subdivision 1. **License required.** No rate service organization shall provide any service relating to the rates of any insurance subject to this chapter, and no insurer shall employ the services of such organization for such purposes unless the organization has obtained a license under section 14.

Subd. 2. Availability of services. Every rate service organization shall supply without discrimination any services for which it is licensed in this state to any insurer authorized to do business in this state and offering to pay the fair and usual compensation for the services.

Sec. 14. [70A.14] Licensing. Subdivision 1. **Application.** A rate service organization applying for a license as required by section 13, subd. 1, shall include with its application:

(a) A copy of its constitution, charter, articles of organization, agreement, association or incorporation, and a copy of its by-laws, plan of operation and any other rules or regulations governing the conduct of its business;

(b) A list of its members and subscribers;

(c) The name and address of one or more residents of this state upon whom notices, process affecting it or orders of the commissioner may be served;

(d) A statement showing its technical qualifications for acting in the capacity for which it seeks a license; and

(e) Any other relevant information and documents that the commissioner may require.

Subd. 2. Change of circumstances. Every organization which has applied for a license under subd. 1 shall thereafter

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promptly notify the commissioner of every material change in the facts or in the documents on which its application was based.

Subd. 3. **Granting a license.** If the commissioner finds that *the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of law are met,* he shall issue a license specifying the authorized activity of the applicant. He shall not issue a license if the proposed activity would tend to create a monopoly or to lessen or destroy price competition.

Subd. 4. **Duration.** Licenses issued pursuant to this section shall remain in effect until the licensee withdraws from the state or until the license is suspended or revoked. The fee for each license shall be \$25, payable every 3 years.

Subd. 5. **Amendments to constitution and bylaws.** Any amendment to a document filed under subd. 1 (a) shall be filed within thirty days of its adoption. Failure to comply with this subsection shall be a ground for revocation of the license granted under subdivision 3.

Sec. 15. [70A.15] **Binding agreements by insurers.** No insurer shall assume any obligation to any person other than a policyholder or other companies under common control to use or adhere to certain rates or rules, and no other person shall impose any penalty or other adverse consequence for failure of an insurer to adhere to certain rates or rules.

Sec. 16. [70A.16] **Joint underwriting or joint reinsurance.** Subdivision 1. **Joint underwriting.** Every group, association, or other organization of insurers which engages in joint underwriting shall be subject to all the provisions of this chapter.

Subd. 2. **Joint reinsurance.** Every group, association, or other organization of insurers which engages in joint reinsurance, shall be subject to the provisions of sections 18 and 20 to 22.

Subd. 3. **Unfair or unreasonable practice.** If, after a hearing, the commissioner finds that any activity or practice of any group, association or other organization referred to in subd. 1 or 2 is unfair, unreasonable, or otherwise inconsistent with the provisions of this chapter, he shall issue a written order specifying in what respects that activity or practice is unfair, unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of the activity or practice.

Sec. 17. [70A.17] **Recording and reporting of experi-**

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ence. Subdivision 1. The commissioner shall promulgate and may modify reasonable rules and statistical plans, reasonably adapted to each of the rating systems used, and which shall thereafter be used by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rates comply with the applicable standards of this Act. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide expense practice.

Subd. 2. In promulgating such rules and plans the commissioner shall give due consideration to the rating systems in use in this state and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system used by it.

Subd. 3. The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

Sec. 18. [70A.18] Examinations. Whenever he deems it necessary in order to inform himself about any matter related to the enforcement of this chapter the commissioner may examine or cause to be examined any rate service organization subject to section 13, subd. 1, any insurer and any group, association or other organization referred to in section 16. The reasonable costs of any such examination shall be paid by the rate service organization, insurer, or group, association or other organization examined, upon presentation to it of a detailed account of such costs. The officers, manager, agents and employees of any such rate service organization, insurer, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

Sec. 19. [70A.19] Information to be furnished insureds; hearing and appeals of insureds. Every rate service organization

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and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor, furnish to any insured affected by a rate made by it, or to the authorized representative of that insured, all pertinent information as to that rate. Every rate service organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which that rating system has been applied in connection with the insurance afforded him. If the rate service organization or insurer fails to grant or reject any such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of a rate service organization or insurer on any such request may, within 30 days after written notice of such action, appeal to the commissioner who, after a hearing held upon not less than 10 days written notice to the appellant and to the rate service organization or insurer, may affirm or reverse its action.

Sec. 20. [70A.20] False or misleading information. No person or organization shall willfully withhold information from, or knowingly give false or misleading information to the commissioner, any statistical agency designated by the commissioner, any rate service organization, or any insurer, which will affect the rates chargeable under this chapter.

Sec. 21. [70A.21] Penalties. Subdivision 1. Violation; willful violation. The commissioner may, if he finds that any person or organization has violated any provisions of this chapter, impose a penalty of not more than \$50 for each violation, and if he finds such violation to be willful he may impose a penalty of not more than \$500 therefor. Such penalties may be in addition to any other penalty provided by law.

Subd. 2. Suspension of license. The commissioner may suspend the license of any rate service organization or insurer which fails to comply with any order made by him within the time limited by such order, or any extension thereof which he may grant. He shall not suspend the license of any rate service organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or, if an appeal has been taken, until the order has been affirmed. He may determine when a suspension of license shall become effective and that suspension shall remain in effect for the period fixed by him, unless he modifies or rescinds it, or until the order upon which it is based is modified, rescinded or reversed.

Subd. 3. Penalty imposed by written order. No penalty

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shall be imposed, and no license shall be suspended or revoked, except upon a written order of the commissioner, stating his findings made after a hearing held upon not less than ten days written notice to the person or organization to be affected thereby, specifying the alleged violation or ground of suspension or revocation.

Sec. 22. [70A.22] **Hearings, procedure, and judicial review.** Subdivision 1. **Request for hearing; hearing; order thereon.** Any insurer or rate service organization aggrieved by any order or decision of the commissioner made without a hearing, may, within thirty days after notice of the order to it, make written request to the commissioner for a hearing thereon. The commissioner shall hear the party or parties within twenty days after receipt of the request and shall give not less than ten days written notice of the time and place of the hearing. Within fifteen days after hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending the hearing and decision thereon the commissioner may suspend or postpone the effective date of his previous action.

Subd. 2. **Formal rules of pleading or evidence not required.** Nothing contained in this chapter shall require the observance at any hearing of formal rules of pleading or evidence.

Subd. 3. **Certiorari.** Any order or decision of the commissioner shall be subject to review by writ of certiorari at the instance of any party in interest. The court shall determine whether the granting of the writ shall operate as a stay of the order or decision of the commissioner. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the commissioner in whole or in part.

Sec. 23. [70A.23] **Transition provisions.** On the effective date of this chapter, all rates on file with the commissioner and not disapproved by him may be used without further delay, subject to the provisions of this chapter.

Sec. 24. **Repeals.** Minnesota Statutes 1967, Chapter 70, is hereby repealed.

Sec. 25. **Effective date.** This act is effective September 1, 1969.

Approved June 4, 1969.

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