

subdivision 2, by the Minnesota housing finance agency on or before the day of final enactment.

**Sec. 20. REPEALER.**

Minnesota Statutes 1980, Section 462A.21, Subdivision 11, is repealed.

**Sec. 21. APPROPRIATION.**

The sum of \$21,587,300 is appropriated from the general fund to the housing development fund created in section 462A.20, for the purposes specified in this section and for the payment of related costs and expenses.

(a) For making rehabilitation loans to persons and families of low and moderate income, as provided in section 11..... \$3,500,000.

The authority granted to the agency by section 10 to transfer moneys among appropriated accounts shall not apply to the appropriation in this paragraph (a).

(b) For making low interest rate rehabilitation loans to persons and families of low and moderate income, as provided in section 462A.21, subdivisions 4b and 7 and for the home ownership assistance fund provided in section 462A.21, subdivision 8..... \$14,407,300.

(c) For making grants to sponsors or builders of multi-unit residential housing for occupancy by persons and families of low and moderate income, as provided in section 462A.21, subdivision 4e.....\$200,000.

(d) For the American Indians revolving fund created in section 462A.21, subdivision 4c.....\$3,480,000.

**Sec. 22. EFFECTIVE DATE.**

Sections 1. to 20 are effective the day after enactment.

Approved May 29, 1981

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**CHAPTER 307 — H.F.No. 1048**

*An act relating to insurance; removing insurance solicitors from insurance licensing provisions; prescribing certain fees; providing for licensing of certain legal entities as agents; providing for the licensing of other insurance agents; providing for examinations; providing exceptions to the licensing requirements; authorizing temporary licenses; providing for appointment of agents by insurers; prohibiting certain persons from obtaining an agent's license; providing for the revocation or suspension of licenses upon specified conditions; providing for the surrender, loss, or destruction of licenses; prescribing certain powers of the commissioner; authorizing the sale of contracts on a*

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*variable basis without licensure in certain circumstances; authorizing the commissioner to promulgate rules; prescribing penalties; amending Minnesota Statutes 1980, Sections 60A.02, Subdivision 7; 60A.14, Subdivision 1; 60A.17, Subdivisions 1, 3, 5, 6, 10, 12, and 13, and by adding subdivisions; repealing Minnesota Statutes 1980, Sections 60A.02, Subdivision 8; and 60A.17, Subdivisions 2, 2a, 2b, 4, 5a, 6a, 7, and 9.*

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

Section 1. Minnesota Statutes 1980, Section 60A.02, Subdivision 7, is amended to read:

Subd. 7. **INSURANCE AGENT.** An "insurance agent" is a person acting under express authority from an insurer and on its behalf to solicit insurance, or to appoint other agents to solicit insurance, or to write and countersign policies of insurance, or to collect premiums therefor within this state, or to exercise any or all these powers when so authorized by the insurer. The term "person" includes a natural person, a partnership, or a corporation.

Sec. 2. Minnesota Statutes 1980, Section 60A.14, Subdivision 1, is amended to read:

Subdivision 1. **FEES OTHER THAN EXAMINATION FEES.** In addition to the fees and charges provided for examinations, the following fees shall be paid to the commissioner for deposit in the general fund:

- (+) (a) By township mutual fire insurance companies:
  - (a) (1) For filing certificate of incorporation \$25 and amendments thereto, \$10;
  - (b) (2) For filing annual statements, \$15;
  - (c) (3) For each annual certificate of authority, \$15;
  - (d) (4) For filing bylaws \$25 and amendments thereto, \$10.
- (-) (b) By other domestic and foreign companies including fraternal and reciprocal exchanges:
  - (a) (1) For filing certified copy of certificate of articles of incorporation, \$50;
  - (b) (2) For filing annual statement, \$30;
  - (c) (3) For filing certified copy of amendment to certificate or articles of incorporation, \$50;
  - (d) (4) For filing bylaws or amendments thereto, \$10;
  - (e) (5) For each company's certificate of authority, \$30, annually.
- (-) (c) The following general fees apply:

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(a) (1) For each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, \$5;

(b) (2) For each copy of paper on file in the commissioner's office 50 cents per page, and \$2.50 for certifying the same;

(c) (3) For license to procure insurance in unadmitted foreign companies, \$10;

(d) (4) For receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of insurance, as attorney for service of process upon any non-resident agent or insurance company, including reciprocal exchanges, \$5, which amount shall be paid by the party serving the same and may be taxed as other costs in the action;

(e) (5) For valuing the policies of life insurance companies, one cent per one thousand dollars of insurance so valued. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(f) (6) For receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, \$50;

(g) (7) For issuing a ~~non-resident agent's~~ license, ~~\$25~~ \$15, and for issuing an amended or duplicate license, \$3;

(h) (8) For ~~taking an application, examination, or re-examination for one line of insurance class of license~~, \$15 and an additional \$15 for ~~each an application, examination, or re-examination for an additional line of insurance or for re-examination in any one line the second class of license~~;

(i) (9) For each ~~new agent's license requested or for the requested renewal of an existing agent's license~~, a domestic appointment of an agent filed with the commissioner, a domestic insurer shall remit \$5 annually and all other insurers shall remit \$3; and for each ~~amendment requested on the license~~, a domestic insurer shall remit \$3 and all other insurers shall remit \$4 annually.

Sec. 3. Minnesota Statutes 1980, Section 60A.17, Subdivision 1, is amended to read:

Subdivision 1. **LICENSE REQUIRED.** (a) **REQUIREMENT.** No person shall act or assume to act as an insurance agent or ~~solicitor~~ in the solicitation or procurement of applications for insurance, nor in the sale of insurance or policies of insurance, nor in any manner aid as an insurance agent or ~~solicitor~~ in the negotiation of insurance by or with an insurer, including

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resident agents or reciprocal or interinsurance exchanges and fraternal beneficiary associations, until ~~such~~ that person shall obtain from the commissioner a license therefor; ~~which.~~ The license shall specifically set forth the name of the person so authorized to act as agent ~~or solicitor~~ and the class or classes of insurance for which ~~he~~ that person is authorized to solicit or countersign policies. An insurance agent may qualify for a license in the following classes: (1) life and health; and (2) property and casualty.

For the purposes of determining whether an agent of a fraternal benefit association must be licensed under this subdivision, the term insurance agent means any authorized or acknowledged agent of a fraternal benefit association acting as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that the term insurance agent shall not include:

(a) any regular salaried officer or employee of a fraternal benefit association who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(b) any agent or representative of a fraternal benefit association who devotes, or intends to devote, less than 50 percent of his time to the solicitation and procurement of insurance contracts for the fraternal benefit association. Any person who, in the preceding calendar year, has solicited and procured life insurance contracts on behalf of any fraternal benefit association in an amount of insurance in excess of \$50,000, or, in the case of any other kind or kinds of insurance which the fraternal benefit association might write, on the persons of more than 25 individuals and who has received or will receive a commission or other compensation therefor in the total amount of \$1,000 or more, shall be presumed to be devoting, or intending to devote, 50 percent of his time to the solicitation or procurement of insurance contracts for the fraternal benefit association.

No insurer shall appoint any natural person, partnership, or corporation to act as an insurance agent on its behalf until that natural person, partnership, or corporation obtains a license as an insurance agent.

(b) PARTNERSHIPS AND CORPORATIONS. A license issued to a partnership or corporation shall be solely in the name of the entity to which it is issued; provided, that each partner, director, officer, stockholder, or employee of the licensed entity who is personally engaged in the solicitation or negotiation of a policy of insurance on behalf of the licensed entity shall be personally licensed as an insurance agent.

Upon request by the commissioner, each partnership and corporation licensed as an insurance agent shall provide the commissioner with a list of the

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names of each partner, director, officer, stockholder, and employee who is required to hold a valid insurance agent's license.

(c) TRANSITION. (1) Any agent who is qualified for life or accident and health as of June 1, 1981 shall be deemed to have qualified for a life and health license under this act and been appointed by an insurer which has submitted a written requisition for a license for that agent as of June 1, 1981.

(2) Any agent who is qualified for one or more lines of insurance, excluding life or accident and health and farm property liability as of June 1, 1981 shall be deemed to have qualified for a property and casualty license under this act and been appointed by any insurer which has submitted a written requisition for a license for that agent as of June 1, 1981.

Sec. 4. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

Subd. 1a. LICENSE APPLICATION. (a) PROCEDURE. An application for a license to act as an insurance agent shall be made to the commissioner by the person who seeks to be licensed and shall be accompanied by a money order or cashier's check payable to the state treasurer for the amount of the examination fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (8). All examination fees shall be nonrefundable. The applicant shall have six months from the date of payment of the examination fee to take the exam. The application for license shall be accompanied by a written appointment from an admitted insurer authorizing the applicant to act as its agent under one or both classes of license. The insurer must also submit its check payable to the state treasurer for the amount of the appointment fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (9) at the time the agent becomes licensed. The application and appointment shall be on forms prescribed by the commissioner.

If the applicant is a natural person, no license shall be issued until that natural person has become qualified.

If the applicant is a partnership or corporation, no license shall be issued until at least one natural person who is a partner, director, officer, stockholder, or employee shall be licensed as an insurance agent.

(b) RESIDENT AGENT. The commissioner shall issue a resident insurance agent's license to a qualified resident of this state as follows:

(1) A person may qualify as a resident of this state if that person resides in this state or the principal place of business of that person is maintained in this state. Application for a license claiming residency in this state for licensing purposes, shall constitute an election of residency in this state. Any license issued upon an application claiming residency in this state shall be void if the licensee, while holding a resident license in this state, also holds, or makes

application for, a resident license in, or thereafter claims to be a resident of, any other state or jurisdiction or if the licensee ceases to be a resident of this state; provided, however, if the applicant is a resident of a community or trade area, the border of which is contiguous with the state line of this state, the applicant may qualify for a resident license in this state and at the same time hold a resident license from the contiguous state;

(2) The commissioner shall subject each applicant who is a natural person to a written examination as to the applicant's competence to act as an insurance agent. The examination shall be held at a reasonable time and place designated by the commissioner;

(3) The examination shall be approved for use by the commissioner and shall test the applicant's knowledge of the lines of insurance, policies, and transactions to be handled under the class of license applied for, of the duties and responsibilities of the licensee, and pertinent insurance laws of this state;

(4) The examination shall be given only after the applicant has completed a program of studies in a school, which shall include a school conducted by an admitted insurer, a correspondence course given by an admitted insurer, or other course of study. The course of study shall consist of the equivalent of 45 hours study for each line for which a license application is made. After January 1, 1982, the program of studies or study course shall have been approved by the commissioner in order to qualify under this clause. If the applicant has been previously licensed for the particular line of insurance in the state of Minnesota, the requirement of a program of studies or a study course shall be waived. A certification of compliance by an admitted insurer shall accompany the agent's license application. This program of studies in a school or a study course shall not apply to farm property perils and farm liability applicants, or to agents writing such other lines of insurance as the commissioner may exempt from examination by order;

(5) The applicant must pass the examination with a grade determined by the commissioner to indicate satisfactory knowledge and understanding of the class or classes of insurance for which the applicant seeks qualification. The commissioner shall inform the applicant as to whether or not the applicant has passed;

(6) An applicant who has failed to pass an examination may take subsequent examinations. Examination fees for subsequent examinations shall not be waived; and

(7) Any applicant for a license covering the same class or classes of insurance for which the applicant was licensed under a similar license in this state, other than a temporary license, within the three years preceding the date of the application shall be exempt from the requirement of a written examination, unless the previous license was revoked or suspended by the commissioner.

(c) NONRESIDENT AGENT. The commissioner shall issue a nonresident insurance agent's license to a qualified person who is a resident of another state or country as follows:

(1) A person may qualify for a license under this section as a nonresident only if that person holds a license in another state, province of Canada, or other foreign country which, in the opinion of the commissioner, qualifies that person for the same activity as that for which a license is sought;

(2) The commissioner shall not issue a license to any nonresident applicant until that person files with the commissioner a designation of the commissioner and the commissioner's successors in office as the applicant's true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the applicant's insurance business in this state. This designation shall constitute an agreement that this service of process is of the same legal force and validity as personal service of process in this state upon that applicant.

Service of process upon any licensee in any action or proceeding commenced in any court of competent jurisdiction of this state may be made by serving the commissioner with appropriate copies of the process along with payment of the fee pursuant to section 60A.14, subdivision 1, paragraph (c), clause (4). The commissioner shall forward a copy of the process by registered or certified mail to the licensee at the last known address of record or principal place of business of the licensee; and

(3) A nonresident license shall terminate automatically when the resident license for that class of license in the state, province, or foreign country in which the licensee is a resident is terminated for any reason.

(d) DENIAL. (1) If the commissioner finds that an applicant for a resident or nonresident license has not fully met the requirements for licensing, the commissioner shall refuse to issue the license and shall promptly give written notice to both the applicant and the appointing insurer of the denial, stating the grounds for the denial. All fees which accompanied the application and appointment shall be deemed earned and shall not be refundable.

(2) The commissioner may also deny issuance of a license for any cause that would subject the license of a licensee to suspension or revocation.

(3) The applicant may make a written demand upon the commissioner for a hearing within 30 days of the denial of a license to determine whether the reasons stated for the denial were lawful. The hearing shall be held pursuant to Minnesota Statutes, Chapter 15.

(e) TERM. All licenses issued pursuant to this section shall remain in force until voluntarily terminated by the licensee or until suspended or revoked by the commissioner. A voluntary termination shall occur when the license is

surrendered to the commissioner with the request that it be terminated or when the licensee dies, or when the licensee is dissolved or its existence is terminated. In the case of a nonresident license, a voluntary termination shall also occur upon the happening of the event described in paragraph (c), clause (3).

Every licensed agent shall notify the commissioner within 30 days of any change in address or change in state of residency.

(f) SUBSEQUENT APPOINTMENTS. A person who holds a valid agent's license from this state may solicit applications for insurance on behalf of an admitted insurer with which the licensee does not have a valid appointment on file with the commissioner; provided, that the licensee has permission from the insurer to solicit insurance on its behalf and, provided further, that the insurer upon receipt of the application for insurance submits a written notice of appointment to the commissioner accompanied by its check payable to the state treasurer in the amount of the appointment fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (9). The notice of appointment shall be on a form prescribed by the commissioner.

(g) AMENDMENT OF LICENSE. An application to the commissioner to amend a license to reflect a change of name, or to include an additional class of license, or for any other reason, shall be on forms provided by the commissioner and shall be accompanied by the applicant's surrendered license and a money order or cashier's check payable to the state treasurer for the amount of fee specified in section 60A.14, subdivision 1, paragraph (c), clause (7).

An applicant who surrenders an insurance license pursuant to this clause retains licensed status until an amended license is received.

(h) EXCEPTIONS. The following are exempt from the general licensing requirements prescribed by this section:

(1) Agents of township mutuals who are exempted pursuant to subdivision 1b;

(2) Fraternal beneficiary association representatives exempted pursuant to subdivision 1c;

(3) Any regular salaried officer or employee of a licensed insurer, without license or other qualification, may act on behalf of that licensed insurer in the negotiation of insurance for that insurer; provided that a licensed agent must participate in the sale of any such insurance;

(4) Employers and their officers or employees, and the trustees or employees of any trust plan, to the extent that the employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits for the employees of the employers or employees of their subsidiaries or affiliates involving the use of insurance issued by a licensed

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insurance company; provided, that the activities of the officers, employees and trustees are incidental to clerical or administrative duties and their compensation does not vary with the volume of insurance or applications therefor;

(5) Employees of a creditor who enroll debtors for life or accident and health insurance; provided the employees receive no commission or fee therefor; and

(6) Clerical or administrative employees of an insurance agent who take insurance applications or receive premiums in the office of their employer, if the activities are incidental to clerical or administrative duties and the employee's compensation does not vary with the volume of the applications or premiums.

Sec. 5. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

**Subd. 1b. TOWNSHIP MUTUAL AGENTS.** No agent for a township mutual shall be required to take an examination to become eligible for an agent's license in farm property perils and farm liability if it is certified by one or more township mutual companies that the agent has been acting in the capacity of an agent at least since January 1, 1971, and no new examination shall be required for eligibility for a license in farm property perils and farm liability for a licensed agent in farm windstorm and hail insurance who was licensed prior to January 1, 1971.

Sec. 6. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

**Subd. 1c. FRATERNAL BENEFICIARY ASSOCIATION REPRESENTATIVES.** Representatives of fraternal beneficiary associations who solicit and negotiate insurance contracts shall be deemed to be insurance agents and subject to the licensing requirements as set forth in subdivision 1a; provided, that no insurance agent's license shall be required of:

(a) Any officer, employee, or secretary of a fraternal beneficiary association, or of any subordinate lodge or branch who devotes substantially all of that person's time to activities other than the solicitation or negotiation of insurance contracts and who receives no commission or other compensation directly dependent upon the number or amount of contracts solicited or negotiated; or

(b) Any agent or representative of a fraternal beneficiary association who devotes, or intends to devote, less than 50 percent of that person's time to the solicitation and procurement of insurance contracts for that association. Any person who in the preceding calendar year has solicited and procured life insurance in excess of \$50,000 face amount, or, in the case of any other kinds of insurance which the association may write, on the persons of more than 25 individuals, and who has received or will receive a commission or other

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compensation in the total amount of \$1,000 or more, shall be presumed to be devoting, or intending to devote, 50 percent of that person's time to the solicitation or procurement of insurance contracts for that association.

Sec. 7. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

Subd. 2c. **MANDATORY TEMPORARY LICENSES.** The commissioner shall grant a temporary insurance agent's license to a person who has submitted an application for a resident license which is accepted by the commissioner and who has successfully completed the examination, if any, required by the commissioner. The temporary license shall be granted no later than the date upon which the applicant receives written notice from the commissioner that the application for resident license has been accepted by the commissioner and that the person has passed any required examination. A temporary license will permit the applicant to act as an insurance agent for the original appointing insurer for the class of business specified therein until the earlier of (a) receipt by the applicant of the resident license, or (b) the expiration of 90 days from the date on which the temporary license was granted.

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Sec. 8. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

Subd. 2d. **PERMISSIVE TEMPORARY LICENSE.** The commissioner may issue a temporary license to a person to act as an insurance agent for a period not to exceed 90 days, which may be extended as determined by the commissioner, without requiring an examination if the commissioner deems that a temporary license is necessary for the servicing of an insurance business in the following cases:

(a) To an agent licensed as a resident agent in another state where the commissioner determines that the foreign license is substantially the equivalent of that being applied for from the state of Minnesota and where the agent has been transferred into this state with the intention of becoming a resident, working as an insurance agent, and obtaining a resident license from the state of Minnesota;

(b) To the surviving spouse or next of kin, or to the administrator or executor, or to an employee of a deceased licensed insurance agent, or to the spouse, next of kin, an employee or legal guardian of a disabled licensed insurance agent;

(c) To the designee of a licensed insurance agent entering upon active service in the armed forces of the United States; or

(d) In any other circumstance where the commissioner deems that the public interest will best be served by the issuance of a temporary license.

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Sec. 9. Minnesota Statutes 1980, Section 60A.17, Subdivision 3, is amended to read:

Subd. 3. **BROKERAGE BUSINESS AND NON-RESIDENTS.** (1) **BROKERAGE.** Every insurance agent duly licensed to transact business in this state shall have the right to procure the insurance of risks, or parts of risks, in the class or classes of insurance for which he is licensed in other insurers duly authorized to transact business in this state, but such insurance shall only be consummated through a duly licensed resident agent of the insurer taking the risk. If the law of another state requires a non-resident agent who is a resident agent of Minnesota to pay a portion of the premium to or share commissions with a licensed resident agent of that state, then the licensed resident agent of Minnesota when consummating and countersigning for a licensed non-resident agent of that state shall receive five percent of the total premium or 25 percent of the commission, whichever is less.

(2) (a) ~~A non-resident insurance agent or solicitor placing insurance through a resident insurance agent of this state or with any insurer doing business within this state shall be permitted to do so only when he shall have first made written application for and procured from the commissioner a license therefor, upon a form prescribed by the commissioner, upon the payment of a fee prescribed by section 60A.14, subdivision 1, clause (3) (g). The license terminates automatically when the license for that line in the state in which he is a resident is terminated for any reason. The license expires one year from its date and shall in no case be granted to a resident of any state which does not permit the licensing of an agent of this state under like circumstances.~~

(b) ~~Prior to receiving a nonresident's license, the applicant must, on a form prescribed by the commissioner appoint the commissioner as his attorney upon whom may be served all legal process issued in connection with any action or proceeding brought or pending in this state against or involving the licensee and relating to transactions under his nonresident license. The appointment shall be irrevocable and shall continue so long as any such action or proceeding could arise or exist.~~

(c) ~~Duplicate copies of process shall be served upon the commissioner, accompanied by payment of the fee specified in section 60A.14, subdivision 1, clause (3) (d). Upon receiving such service, the commissioner shall promptly forward a copy thereof by registered or certified mail, with return receipt requested, to the nonresident licensee at his last known address. Process served upon the commissioner in this manner shall for all purposes constitute personal service thereof upon the licensee.~~

Sec. 10. Minnesota Statutes 1980, Section 60A.17, Subdivision 5, is amended to read:

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Subd. 5. **UNFIT PERSON NOT TO BE EMPLOYED BY INSURER.** No insurer, its officers, agents, or managers, shall knowingly make application to the commissioner for a license as agent on behalf of any appointment of a person as its agent where that person who is known to the insurer, its officers, agents, or managers, making the application, to be unfit or disqualified to be licensed as an insurance agent, and immediately upon the discovery by the insurer, its officers, agents, or managers, having supervision of the agent, of the unfitness or disqualification, the insurer, or the officers, agents, or managers, shall forthwith ~~request~~ inform the commissioner, in writing of their decision to revoke the license terminate their appointment of this agent; nor shall any insurer retain in its employ any agent known by it to be disqualified or unfit to be licensed as an insurance agent; ~~nor shall any agent retain in his employ as solicitor any person disqualified or unfit to be licensed as such.~~

Sec. 11. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

Subd. 5b. **TERM OF APPOINTMENTS.** All appointments of agents by insurers pursuant to this section shall remain in force for one year unless sooner terminated voluntarily by the appointing insurer or the license of the agent has for any reason been terminated during the appointment year. The original appointing insurer, as well as any subsequent appointing insurer, may terminate their appointment of an agent at any time by giving written notice thereof to the commissioner and by sending a copy thereof to the last known address of the agent. The effective date of the termination shall be the date of receipt of the notice by the commissioner unless another date is specified by the insurer in the notice. Within 30 days after the insurer gives notice of termination to the commissioner, the insurer shall furnish the agent with a current statement of the agent's commission account.

Accompanying the notice of a termination given to the commissioner by the insurer shall be a statement of the specific reasons constituting the cause of termination. Any document, record, or statement relating to the agent which is disclosed or furnished to the commissioner contemporaneously with, or subsequent to, the notice of termination shall be deemed confidential by the commissioner and a privileged communication. The document, record, or statement furnished to the commissioner shall not be admissible in whole or in part for any purpose in any action or proceeding against (a) the insurer or any of its officers, employees, or representatives, submitting or providing the document, record or statement, or (b) any person, firm, or corporation furnishing in good faith to the insurer the information upon which the reasons for termination are based.

The agent may request of the commissioner and the commissioner shall disclose to the agent the specific reason or reasons for termination.

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Sec. 12. Minnesota Statutes 1980, Section 60A.17, Subdivision 6, is amended to read:

Subd. 6. **PERSONS WHO SHALL NOT BE LICENSED AS AGENTS OR SOLICITORS.** No person shall be licensed by the commissioner as an insurance agent ~~or solicitor~~ if the commissioner shall be satisfied that the person is incompetent or unqualified to act as an insurance agent ~~or solicitor~~, or that the person does not in good faith intend to carry on the business of insurance agent ~~or solicitor~~, or intends to secure a license for the sole purpose of writing insurance upon his the agent's own life or property; or that the person is untrustworthy or of bad moral character; or that the person has unreasonably failed to pay over to any insurer, agent, ~~or solicitor~~, or policyholder or member of any insurance company or association entitled thereto, the whole or any part of any premium or return premium, or moneys or other thing of value in his the agent's hands, arising out of any insurance transaction, and due or payable to or belonging to any policyholder or other person, firm or corporation; or that the person has wilfully misrepresented to any person, firm or corporation the terms or conditions of any policy or contract of insurance or the financial standing or condition or manner of doing business of any insurer, or agent, or solicitor; or that the person has deceived or defrauded, or attempted to deceive or defraud, any person, firm, or corporation in connection with any insurance transaction, or that the person has been dishonest in connection with any insurance transaction, or that the person has urged or procured any person, firm, or corporation to lapse any policy or contract of insurance in any company or association which is now or has been licensed to do business in the state, to the damage of ~~such~~ the person, firm, or corporation, or that the person has violated any of the provisions of the laws of this state in any way relating to insurance or the transaction or negotiation of insurance, or insurance agents ~~or solicitors~~, or any lawful ruling of the commissioner.

Sec. 13. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

Subd. 6b. **FEES FOR SERVICES.** No person shall charge a fee for any services rendered in connection with the solicitation, negotiation or servicing of any insurance contract unless:

(a) prior to rendering the services, a written statement is provided disclosing:

- (1) the services for which fees are charged;
- (2) the amount of the fees;
- (3) that the fees are charged in addition to premiums; and
- (4) that premiums include a commission;

(b) all fees charged are reasonable in relation to the services rendered.

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Sec. 14. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

**Subd. 6c. REVOCATION OR SUSPENSION OF LICENSE. (a)**

The commissioner may suspend or revoke an insurance agent's license issued to a natural person or impose a civil penalty appropriate to the offense, not to exceed \$5,000 upon that licensee, if, after notice and hearing, the commissioner finds as to that licensee any one or more of the following conditions:

- (1) Any materially untrue statement in the license application;
  - (2) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance;
  - (3) Violation of, or noncompliance with, any insurance law or violation of any rule or order of the commissioner or of a commissioner of insurance of another state or jurisdiction;
  - (4) Obtaining or attempting to obtain any license through misrepresentation or fraud;
  - (5) Improperly withholding, misappropriating, or converting to the licensee's own use any moneys belonging to a policyholder, insurer, beneficiary, or other person, received by the licensee in the course of the licensee's insurance business;
  - (6) Misrepresentation of the terms of any actual or proposed insurance contract;
  - (7) Conviction of a felony or of a gross misdemeanor or misdemeanor involving moral turpitude;
  - (8) That the licensee has been found guilty of any unfair trade practice, as defined in Minnesota Statutes, Chapters 60A to 72A, or of fraud;
  - (9) That in the conduct of the agent's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or the licensee has been shown to be incompetent, untrustworthy, or financially irresponsible;
  - (10) That the agent's license has been suspended or revoked in any other state, province, district, territory, or foreign country;
  - (11) That the licensee has forged another's name to an application for insurance; or
  - (12) That the licensee has violated subdivision 6b.
- (b) The commissioner may suspend or revoke an insurance agent's license issued to a partnership or corporation or impose a civil penalty not to exceed \$5,000 upon that licensee, if, after notice and hearing, the commissioner

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finds as to that licensee, or as to any partner, director, shareholder, officer, or employee of that licensee, any one or more of the conditions set forth in paragraph (a).

(c) A revocation of a license shall prohibit the licensee from making a new application for a license for at least one year. Further, the commissioner may, as a condition of relicensure, require the applicant to file a reasonable bond for the protection of the citizens of this state, which bond shall be maintained by the licensee in full force for a period of five years immediately following issuance of the license, unless the commissioner at his or her discretion shall after two years permit the licensee to sooner terminate the maintenance filing of the bond.

(d) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of Minnesota Statutes, Chapter 60A or of any rule or order of the commissioner:

(1) The commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from the violation. The order shall give reasonable notice of the time and place of hearing and shall state the reasons for the entry of the order. A hearing shall be held not later than seven days after the issuance of the order unless the person requests a delay. After the hearing and within 30 days of filing of any exceptions to the hearing examiner's report, the commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be conducted in accordance with the provisions of Minnesota Statutes, Chapter 15. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(2) In any proceeding under Minnesota Statutes, Chapter 60A relating to injunction, the request for injunction may be brought on for hearing and disposition upon an order to show cause returnable upon not more than eight days notice to the defendant. The case shall have precedence over other matters on the court calendar and shall not be continued without the consent of the state of Minnesota, except upon good cause shown to the court, and then only for a reasonable length of time as may be necessary in the opinion of the court to protect the rights of the defendant.

Sec. 15. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

Subd. 7a. **SURRENDER, LOSS, OR DESTRUCTION OF LICENSE.** (a) The commissioner shall promptly notify the licensee and all appointing insurers, where applicable, of any suspension, revocation, or termination of the licensee's agent's license by the commissioner. Upon receipt of

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the notice of suspension or revocation of a license, the licensee shall immediately deliver it to the commissioner.

(b) An agent whose resident or nonresident license is terminated as provided in subdivision 6b, shall deliver the terminated license to the commissioner by personal delivery or by mail within 30 days after the date of termination.

(c) The commissioner may issue a duplicate license for any lost, stolen, or destroyed license issued pursuant to this section upon an affidavit of the licensee concerning the facts of the loss, theft, or destruction, and the payment of a fee of \$3 by money order or cashier's check payable to the state treasurer.

(d) An insurance agent shall notify the commissioner within 30 days of any fine imposed on that agent by another state or of a suspension or revocation of license by the commissioner of insurance of this or any other state.

Sec. 16. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

**Subd. 9a. POWERS OF THE COMMISSIONER.** The commissioner shall have the full power to order the appearance of any person to appear before him in relation to any matter which is, by the provisions of the laws of this state relating to insurance, a subject of inquiry or investigation, and may require the production of any book, paper, or document deemed pertinent.

Sec. 17. Minnesota Statutes 1980, Section 60A.17, Subdivision 10, is amended to read:

**Subd. 10. COMMISSIONS OR COMPENSATION.** No commission or other compensation shall be paid or allowed by any person, firm, or corporation to any other person, firm, or corporation acting, or assuming to act, as an insurance agent ~~or solicitor~~ without a license therefor. A duly licensed agent ~~or solicitor~~ may pay his commissions or assign or direct that his commissions be paid to a partnership of which ~~he~~ the agent is a member, employee or agent, or to a corporation of which ~~he~~ the agent is an officer, employee or agent. This section shall not prevent the payment or receipt of renewal or other deferred commissions to or by any person solely because ~~such~~ the person has ceased to hold a license to act as an insurance agent.

Sec. 18. Minnesota Statutes 1980, Section 60A.17, Subdivision 12, is amended to read:

**Subd. 12. LIABILITY FOR PLACING INSURANCE IN UNAUTHORIZED COMPANY.** If Any person, regardless of whether ~~he~~ that person is required to be licensed as an insurance agent ~~or insurance solicitor~~, who participates in any manner in the sale of any insurance policy or certificate, or any other contract providing benefits, for or on behalf of any company which is

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required to be, but which is not authorized to engage in the business of insurance in this state, ~~such person is other than pursuant to section 60A.20,~~ shall be personally liable for all premiums, whether earned or unearned, paid by the insured, and ~~such the premiums may be recovered by the insured.~~ In addition, ~~he~~ that person shall be personally liable for any loss the insured has sustained or may sustain if the loss is one resulting from a risk or hazard covered in the issued policy ~~or, certificate, or contract~~ or which would have been covered if the policy ~~or, certificate, or contract~~ had been issued to the purchaser of the insurance.

Sec. 19. Minnesota Statutes 1980, Section 60A.17, Subdivision 13, is amended to read:

Subd. 13. **AGENTS; VARIABLE CONTRACTS.** ~~(4)~~ (a) LICENSE REQUIRED. No person shall sell or offer for sale a contract on a variable basis unless prior to making any ~~such~~ solicitation or sale ~~he shall have the person has~~ obtained from the commissioner a license therefor. ~~Such~~ The license shall only be granted, upon the written requisition of an insurer, to a qualified person who holds a current license authorizing ~~him~~ the person to solicit and sell life insurance and annuity contracts in this state. To become qualified, a person shall complete a written application on a form prescribed by the commissioner and shall take and pass an examination prescribed by the commissioner. Prior to the taking of the examination, or upon re-examination, the applicant shall transmit to the commissioner, by money order or cashiers check payable to the state treasurer, an examination fee of \$10. ~~The license issued shall expire on May 31 of each year, unless renewed by written request of the insurer with payment of a renewal fee of \$2.~~

~~(2)~~ (b) EXCEPTIONS. ~~(a)~~ (1) Any officer of a licensed insurer may, without license or other qualification, act in its behalf in the negotiation and consummation of contracts on a variable basis.

~~(b)~~ (2) Any person who, on July 1, 1969, holds a valid license authorizing ~~him~~ the person to solicit and sell life insurance and annuity contracts and who also holds a valid license issued by the securities and real estate division of the department of commerce authorizing ~~him~~ the person to sell or offer for sale contracts on a variable basis shall be issued a license by the commissioner of insurance upon application therefor and payment of a \$2 fee, which license shall expire on May 31, 1970, unless renewed by an insurer as provided in ~~clause (4) paragraph (a).~~

(3) Any person who holds a valid license to solicit and sell life insurance and annuity contracts may solicit and sell contracts on a variable basis without acquiring a license under this subdivision if the contract is based on an account which is excluded from the definition of investment company under the Investment Company Act of 1940, 15 U.S.C. 80a-3(11).

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(3) (c) **RULES AND REGULATIONS.** The commissioner may by rules and regulations waive or modify any of the foregoing requirements or prescribe such additional requirements as he may deem deemed necessary for the proper sale and solicitation of contracts on a variable basis.

(4) **OTHER LAWS APPLICABLE.** The provisions of subdivisions 3, 5, 6, 7, 8, 9 and 11 shall, to the extent not inconsistent with the provisions enumerated herein, be applicable to this subdivision.

Sec. 20. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

Subd. 15. **RULES.** The commissioner may adopt rules pursuant to Minnesota Statutes, Chapter 15 to further implement and administer the provisions of this section.

Sec. 21. Minnesota Statutes 1980, Section 60A.17, is amended by adding a subdivision to read:

Subd. 16. **PENALTIES.** Whenever the commissioner has found an agent or agency has repeatedly violated or established a pattern of violations of any insurance law while directly representing a particular insurer, the commissioner shall so notify the insurer in writing. Thereafter, the insurer shall have a reasonable amount of time to take appropriate action. If after the notice and expiration of a reasonable amount of time, the commissioner finds that the insurer failed to take reasonable action, the commissioner may subject the insurer to a civil penalty not to exceed \$5,000.

Sec. 22. **REPEALER.**

Minnesota Statutes 1980, Sections 60A.02, Subdivision 8; and 60A.17, Subdivisions 2, 2a, 2b, 4, 5a, 6a, 7, and 9, are repealed.

Approved May 29, 1981

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## CHAPTER 308 — S.F.No. 179

*An act relating to economic development; regulating business loans to Indians; amending Minnesota Statutes 1980, Section 362.40, Subdivisions 2, 8, 9, 11, 12, 14, and by adding a subdivision; repealing Minnesota Statutes 1980, Section 362.40, Subdivisions 4, 5, and 10.*

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

Section 1. Minnesota Statutes 1980, Section 362.40, Subdivision 2, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.