

accounts of the commission, and the treasurer shall keep a correct account of its receipts and expenditures.

Approved March 3, 1986

CHAPTER 313—S.F.No. 1612

An act relating to insurance; changing certain incorporation requirements for domestic insurance corporations; redefining cost for purpose of insurance company bidding for government contracts; classifying certain data collected by the commissioner of commerce as non-public data; changing certain investment requirements for life insurance companies; authorizing joint underwriting association issuance of insurance to hospitals and nursing homes; providing liability insurance for foster parents; regulating fraternal benefit societies; allowing the Minnesota automobile insurance plan to write liability insurance on school buses up to \$1,000,000; redefining cost for purpose of insurance company bidding for government contracts; amending Minnesota Statutes 1984, sections 60A.07, subdivision 1; 61A.282, subdivision 1; 65B.06, subdivision 3; 62F.06, subdivision 1; 62F.09; 245.814; and 471.616, subdivision 1; Minnesota Statutes 1985 Supplement, sections 13.71, by adding a subdivision; 64B.01; and 64B.03; proposing coding for new law in Minnesota Statutes, chapter 62F.

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

Section 1. Minnesota Statutes 1985 Supplement, section 13.71, is amended by adding a subdivision to read:

Subd. 5. DATA ON INSURANCE COMPANIES AND TOWNSHIP MUTUAL COMPANIES. The following data collected and maintained by the department of commerce are classified as nonpublic data:

(a) that portion of any of the following data which would identify the affected insurance company or township mutual company: (1) any order issued pursuant to section 60A.031, subdivision 5, or section 67A.241, subdivision 4, and based in whole or in part upon a determination or allegation by the commerce department or commissioner that an insurance company or township mutual company is in an unsound, impaired, or potentially unsound or impaired condition; or (2) any stipulation, consent agreement, letter agreement, or similar document evidencing the settlement of any proceeding commenced pursuant to an order of a type described in clause (1), or an agreement between the department and an insurance company or township mutual company entered in lieu of the issuance of an order of the type described in clause (1);

(b) any correspondence or attachments relating to the data listed in this subdivision.

Sec. 2. Minnesota Statutes 1984, section 60A.07, subdivision 1, is amended to read:

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Subdivision 1. **INCORPORATION.** Except when the manner of organization is specifically otherwise provided in sections dealing with ~~such these~~ insurers, domestic insurance corporations shall be organized under and governed by chapter 300 ~~and~~. The articles or certificate of incorporation ~~shall be as required under Minnesota Statutes 1965, must meet the requirements of~~ section 300.025, except section 300.025, clause (7).

Sec. 3. Minnesota Statutes 1984, section 61A.282, subdivision 1, is amended to read:

61A.282 INVESTMENTS IN NAME OF COMPANY OR NOMINEE AND PROHIBITIONS.

Subdivision 1. **REQUIREMENTS.** A company's investments shall be held in its corporate name or its nominee name, except that:

(a) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either under the following conditions:

(1) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others;

(2) Where the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee of a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the company making the deposit; or

(3) Where a clearing corporation is to act as depository, the investment may be merged or held in bulk in the clearing corporation's name, or in the name of its nominee, together with any other investments deposited with the clearing corporation by any other person, if a written agreement provides that adequate evidence of the deposit will be obtained and retained by the company or a custodian bank.

As used in this subdivision, "~~clearing corporation~~" means The Depository Trust Company and, with the approval of the commissioner, any other clearing corporation as defined in section 336.8-102; the term "custodian bank" means a bank or trust company licensed by the United States or any state thereof.

(b) A company may participate, through a bank or trust company which is a member of the Federal Reserve System, in the Federal Reserve's book-entry system, if the records of the member bank or trust company at all times show that the investments are held for the company and/or for specific accounts of the company.

(c) If an investment consists of an individual interest in a pool of obligations, or of a fractional interest in a single obligation, the certificate of participation or interest, or the confirmation of participation or interest in the investment,

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shall be held in the manner set forth in paragraph (a) or held in the name of the company.

(d) Where an investment is not evidenced by a certificate, except as provided in paragraph (b), adequate evidence of the company's investment shall be obtained from the issuer or its transfer or recording agent and retained by the company, a custodian bank, or clearing corporation. Adequate evidence, for purposes of this section, shall mean a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the company. Transfers of ownership of investments held as described in paragraphs (a) (3), (b), and (c) may be evidenced by bookkeeping entry on the books of the issuer of the investment or its transfer or recording agent or the clearing corporation without physical delivery of certificates, if any, evidencing the company's investment.

Sec. 4. [62F.041] HOSPITALS AND NURSING HOMES.

Subdivision 1. The association is authorized to issue medical malpractice insurance on a primary basis to hospitals and nursing homes which are unable to obtain coverage in the voluntary market. Issuance of these coverages is not subject to the hearing requirement set forth in section 62F.04, subdivision 1, but shall be otherwise governed by the provisions of section 62F.

Subd. 2. This section shall expire on June 30, 1987.

Sec. 5. Minnesota Statutes 1984, section 62F.06, subdivision 1, is amended to read:

Subdivision 1. A policy issued by the association shall provide for a continuous period of coverage beginning with its effective date and terminating automatically at 12:01 a.m. on September 1, 1988, or sooner as provided in sections 62F.01 to 62F.14. The policy shall be issued subject to the group retrospective rating plan and the stabilization reserve fund authorized by section 62F.09. The policy shall be written to apply to injury which results from acts or omissions claims first made against the insured and reported to the association during the policy period. No policy form shall be used by the association unless it has been filed with the commissioner, and the commissioner may disapprove the form within 30 days if he determines it is misleading or violates public policy.

Sec. 6. Minnesota Statutes 1984, section 62F.09, is amended to read:

62F.09 STABILIZATION RESERVE FUND.

Subdivision 1. There is created a stabilization reserve fund administered by ~~three directors, as follows: the commissioner; a representative of the association appointed by the commissioner; and a representative of the policyholders of the association, appointed by the commissioner.~~

~~Subd. 2. The directors shall act by majority vote with two directors constituting a quorum for the transaction of any business or the exercise of any power~~

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of the fund. The directors shall serve without salary, but shall be reimbursed for expenses in the manner provided for state employees. The directors shall not be subject to personal liability or accountability in the administration of the fund the association or its designee.

Subd. 3 ~~2~~. Each policyholder shall pay to the association a stabilization reserve fund charge of 33 percent of each premium payment due for insurance through the association. This charge shall be separately stated in the policy. The association shall cancel the policy of any policyholder who fails to pay the stabilization reserve fund charge.

Subd. 4 ~~3~~. The association shall promptly pay into the stabilization reserve fund charges which it collects from its policyholders and any retrospective premium refunds payable under the group retrospective rating plan.

Subd. 5 ~~4~~. All moneys paid into the fund shall be held in trust by a corporate trustee selected by the directors. The corporate trustee may invest the moneys held in trust, subject to the approval of the directors association. All investment income gains or losses from the investment of stabilization reserve fund money shall be credited to the fund. All expenses of administration of the fund shall be charged against the fund. The moneys held in trust Stabilization reserve fund money shall be used solely for the purpose of discharging when due any retrospective premium charges payable by policyholders of the association under the group retrospective rating plan. Payment of retrospective premium charges shall be made ~~by the directors~~ upon certification ~~to them~~ by the association of the amount due. If all moneys accruing to the fund are exhausted in payment of retrospective premium charges, all liability and obligations of the association's policyholders with respect to the payment of retrospective premium charges shall terminate and shall be conclusively presumed to have been discharged. Any moneys remaining in the fund after all retrospective premium charges have been paid shall be returned to policyholders under procedures authorized by the directors association.

Sec. 7. Minnesota Statutes 1985 Supplement, section 64B.01, is amended to read:

64B.01 FRATERNAL BENEFIT SOCIETIES.

Any incorporated society, order, or supreme lodge, without capital stock, including one exempted under section 64B.38, subdivision 1, clause (2), whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work or branch system that confines its membership to any one religious denomination, having a representative form of government, and which provides benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society.

Sec. 8. Minnesota Statutes 1985 Supplement, section 64B.03, is amended to read:

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64B.03 REPRESENTATIVE FORM OF GOVERNMENT.

(a) A society has a representative form of government when it has a supreme governing body constituted in one of the following ways:

(1) The supreme governing body is an assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as may be prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates shall constitute a majority in number and shall not have less than two-thirds of the votes and not less than the number of votes required to amend the society's laws. The assembly shall be elected and shall meet at least once every four years and shall elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's laws.

(2) The supreme governing body is a board composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board member may not exceed four years. Vacancies on the board between elections may be filled in the manner prescribed by the society's laws. Those persons elected to the board shall constitute a majority in number and not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board shall meet at least quarterly to conduct the business of the society.

(b) A society has a representative form of government when the officers of the society are elected either by the supreme governing body or by the board of directors.

(c) A society has a representative form of government when only benefit members are eligible for election to the supreme governing body; and the board of directors; ~~or any intermediate assembly.~~

(d) A society has a representative form of government when each voting member shall have one vote and no vote may be cast by proxy.

Sec. 9. Minnesota Statutes 1984, section 65B.06, subdivision 3, is amended to read:

Subd. 3. With respect to all automobiles not included in subdivisions 1 and 2, the facility shall provide:

(1) Only the insurance coverage required by law;

(2) For the equitable distribution of qualified applicants for this coverage among the participating members in accord with the applicable participation ratio; and

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(3) For a school district or contractor transporting school children under contract with a school district, that amount of automobile liability insurance coverage, not to exceed \$1,000,000, required by the school district by resolution or contract, or that portion of such \$1,000,000 of coverage for which the school district or contractor applies and for which it is eligible under section 65B.10.

Sec. 10. Minnesota Statutes 1984, section 245.814, is amended to read:

245.814 LIABILITY INSURANCE FOR FOSTER PARENTS.

Subdivision 1. The commissioner of human services shall within the appropriation provided purchase and provide insurance to foster parents to cover their liability for:

(1) injuries or property damage caused or sustained by foster children in their home; and

(2) actions arising out of alienation of affections sustained by the natural parents of a foster child.

Subd. 2. Coverage shall apply to all foster boarding homes licensed by the department of human services, licensed by a federally recognized tribal government, or established by the juvenile court and certified by the commissioner of corrections pursuant to section 260.185, subdivision 1, clause (c) (5), to the extent that the liability is not covered by the provisions of the standard homeowner's or automobile insurance policy. The insurance shall not cover property owned by the foster parents, damage caused intentionally by a child over 12 years of age, or property damage arising out of business pursuits or the operation of any vehicle, machinery, or equipment.

Subd. 3. If the commissioner of human services is unable to obtain insurance through ordinary methods for coverage of foster parents, the appropriation shall be returned to the general fund and the state shall pay claims subject to the following limitations.

(a) Compensation shall be provided only for injuries, damage, or actions set forth in subdivision 1.

(b) Compensation shall be subject to the conditions and exclusions set forth in subdivision 2.

(c) The state shall provide compensation for bodily injury, property damage, or personal injury resulting from the foster parent's activities as a foster parent while the foster child is in the care, custody, and control of the foster parent in an amount not to exceed \$250,000 for each occurrence.

(d) The state shall provide compensation for damage or destruction of property caused or sustained by a foster child in an amount not to exceed \$250 for each occurrence.

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(e) The compensation in clauses (c) and (d) is the total obligation for all damages because of each occurrence regardless of the number of claims made in connection with the same occurrence, but compensation applies separately to each foster home. The state shall have no other responsibility to provide compensation for any injury or loss caused or sustained by any foster parent or foster child.

This coverage is extended as a benefit to foster parents to encourage care of children who need out-of-home care. Nothing in this section shall be construed to mean that foster parents are agents or employees of the state nor does the state accept any responsibility for the selection, monitoring, supervision, or control of foster parents which is exclusively the responsibility of the counties which shall regulate foster parents in the manner set forth in the rules of the commissioner of human services.

Sec. 11. Minnesota Statutes 1984, section 471.616, subdivision 1, is amended to read:

Subdivision 1. **BIDDING REQUIRED.** No governmental subdivision, political subdivision, or any other body corporate and politic authorized by law to purchase group insurance for its employees and providing or intending to provide group insurance protections and benefits for 25 or more of its employees shall enter into a contract for or renew any group insurance policy or contract without calling for bids and awarding the contract to the lowest responsible bidder by way of competitive bidding procedures similar to those for the provision of services and supplies under section 16B.07, subdivisions 1 to 5. A political subdivision may provide in the bid specifications that self insured health benefit plans will not be considered. Lowest responsible bidder means the insurer, service plan corporation, or self insurance plan, if allowed by the bid specifications which offers the lowest cost, is authorized to do business in this state, and is deemed by the governmental unit to be capable of satisfactorily performing the administration of the policy or contract in accordance with the bid specifications. "Cost" means in the case of an insurer, the net premium rate, including consideration of any expense and risk charges; in the case of service plan corporation, the charge for expenses and risk taking; and in the case of self insurance plans, the sum of the cost of paid claims, including provision for estimated incurred but unpaid claims at the end of the term, administrative costs, and premium for excess coverage. The cost of changing plans may also be considered in determining the lowest cost. The aggregate value of benefits provided by a contract entered into after July 1, 1973 shall not be less than those provided by the preexisting contract (a) unless a majority of the employees covered under the group insurance plan and voting on the question agree to a reduction in the benefits, if the employees are not represented by an exclusive representative pursuant to section 179A.12, or (b) unless the public employer and the exclusive representative of the employees of an appropriate bargaining unit, certified pursuant to section 179.67, agree to a reduction in the benefits. The aggregate value of benefits of any former employee who has retired shall not, in any event, be reduced pursuant to clause (a) or (b), unless he has individually agreed to the reduction.

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No contract need be submitted to bid more frequently than once every 48 months, unless for any reason whatsoever, a 50 percent or greater change in the premium per covered employee under the policy contract is provided, required or indicated. If additional employees are added to an existing group pursuant to a joint powers agreement under section 471.59, new bids and award are not required.

When an insurer proposes an increase in rates, it shall accompany its proposal with an aggregate claims record for the appropriate period that explains the proposed increase. When a contract is resubmitted for bids the aggregate claims record shall accompany the specifications for the contract. Cost comparisons are not required between insured and self-insurance alternatives, but apply to comparisons between two or more insured proposals or comparisons between two or more self insurance proposals.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 to 11 are effective the day following final enactment.

Approved March 5, 1986

CHAPTER 314—S.F.No. 1587

An act relating to public indebtedness; permitting home rule charter and statutory cities and towns to incur debt for warning systems; amending Minnesota Statutes 1984, section 475.52, subdivision 1; and Minnesota Statutes 1985 Supplement, section 366.095.

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

Section 1. Minnesota Statutes 1985 Supplement, section 366.095, is amended to read:

366.095 FINANCING PURCHASE OF CERTAIN EQUIPMENT.

Subdivision 1. CERTIFICATES OF INDEBTEDNESS. The town board may issue certificates of indebtedness within the existing debt limits for a town purpose otherwise authorized by law. The certificates shall be payable in not more than five years and shall be issued on the terms and in the manner as the board may determine. If the amount of the certificates to be issued to finance the purchase exceeds one percent of the assessed valuation of the town, excluding money and credits, they shall not be issued for at least ten days after publication in a newspaper of general circulation in the town of the board's resolution determining to issue them; and if before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular town election is filed with the clerk, the certificates shall not be issued until the proposition of their issuance

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