

Sec. 13. Minnesota Statutes 1992, section 144.1486, is amended to read:

144.1486 RURAL COMMUNITY HEALTH CENTERS.

The commissioner of health shall develop and implement a program to establish community health centers in rural areas of Minnesota that are underserved by health care providers. The program shall provide rural communities and community organizations with technical assistance, capital grants for start-up costs, and short-term assistance with operating costs. The technical assistance component of the program must provide assistance in review of practice management, market analysis, practice feasibility analysis, medical records system analysis, and scheduling and patient flow analysis. The program must: (1) include a local match requirement for state dollars received; (2) require local communities, through instrumentalities of the state of Minnesota or nonprofit boards comprised of local residents, to operate and own their community's health care program; (3) encourage the use of midlevel practitioners; and (4) incorporate a quality assurance strategy that provides regular evaluation of clinical performance and allows peer review comparisons for rural practices. The commissioner shall report to the legislature on implementation of the program by February 15, 1994.

Sec. 14. **EFFECTIVE DATE.**

Sections 1 to 13 are effective the day following final enactment.

Presented to the governor May 14, 1993

Signed by the governor May 17, 1993, 4:42 p.m.

CHAPTER 248—S.F.No. 948

An act relating to insurance; property; regulating the FAIR plan; modifying its provisions; making various technical changes; amending Minnesota Statutes 1992, sections 60C.22; 65A.31; 65A.32; 65A.33, subdivisions 4, 5, and 6; 65A.34; 65A.35; 65A.36; 65A.37; 65A.375; 65A.38; 65A.39; 65A.40; 65A.41; and 65A.42; repealing Minnesota Statutes 1992, sections 65A.33, subdivision 8; and 65A.43.

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

Section 1. Minnesota Statutes 1992, section 60C.22, is amended to read:

60C.22 NOTICE FOR POLICY OR CONTRACT NOT COVERED.

A policy or contract not covered by the Minnesota Life and Health Insurance Guaranty Association or the Minnesota Insurance Guaranty Association must contain the following notice in 10-point type, stamped in red ink on the policy or contract and the application:

New language is indicated by underline, deletions by ~~strikeout~~.

"THIS POLICY OR CONTRACT IS NOT PROTECTED BY THE MINNESOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OR THE MINNESOTA INSURANCE GUARANTY ASSOCIATION. IN THE CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED. ONLY THE ASSETS OF THIS INSURER WILL BE AVAILABLE TO PAY YOUR CLAIM."

This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 2. Minnesota Statutes 1992, section 65A.31, is amended to read:

65A.31 ~~CITATION~~ MINNESOTA FAIR PLAN ACT.

Sections 65A.31 to ~~65A.43~~ 65A.42 shall be known and may be cited as "the Minnesota FAIR plan act."

Sec. 3. Minnesota Statutes 1992, section 65A.32, is amended to read:

65A.32 **PURPOSES.**

The purposes of sections 65A.31 to ~~65A.43~~ 65A.42 are:

- (1) To encourage stability in the property and liability insurance market for property located in this state;
- (2) To encourage maximum use, in obtaining property and liability insurance, as defined in sections 65A.31 to ~~65A.43~~ 65A.42, of the normal insurance market provided by the private property and casualty insurance industry;
- (3) To encourage the improvement of the condition of properties located in this state and to further orderly community development generally;
- (4) To provide for ~~the formulation and administration by an industry placement facility of a plan assuring an organization known as the Minnesota property insurance placement facility, which will assure~~ fair access to insurance requirements (FAIR plan) in order that no property shall be denied property or liability insurance through the normal insurance market provided by the private property and casualty insurance industry except after a physical inspection of such property and a fair evaluation of its individual underwriting characteristics;
- (5) To publicize the purposes and procedures of the FAIR plan to the end that no one may fail to seek its assistance through ~~ignorance thereof~~ lack of knowledge of its existence; and
- (6) To provide for the formulation and administration by the ~~industry~~ Minnesota property insurance placement facility of a reinsurance arrangement whereby property and casualty insurers shall share equitably the responsibility for insuring insurable property for which property and liability insurance cannot be obtained through the normal insurance markets; ~~and~~

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(7) To provide a framework for participation by the state in a sharing of insured losses resulting from riots and other civil disorders occurring in this state as required by section 1223 of the Housing and Urban Development Act of 1968 (Public Law Number 90-448, Ninetieth Congress, August 1, 1968).

Sec. 4. Minnesota Statutes 1992, section 65A.33, subdivision 4, is amended to read:

Subd. 4. "~~Industry~~ Minnesota property insurance placement facility," hereinafter referred to as the facility, means the organization formed by insurers to assist applicants in securing property or liability insurance and to administer the FAIR plan ~~and the joint reinsurance association.~~

Sec. 5. Minnesota Statutes 1992, section 65A.33, subdivision 5, is amended to read:

Subd. 5. "Inspection bureau" means the rating organization designated by the facility, with the approval of the commissioner, to make inspections as required under ~~this program~~ sections 65A.31 to 65A.42 and to perform such other duties as may be authorized by the facility.

Sec. 6. Minnesota Statutes 1992, section 65A.33, subdivision 6, is amended to read:

Subd. 6. "Premiums written" means gross direct premiums; ~~excluding that portion of premium on risks ceded to the joint reinsurance association,~~ charged during the second preceding calendar year with respect to property in this state on all policies of property or liability insurance and the property or liability insurance premium components of all multiperil policies, as computed by the facility, less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.

Sec. 7. Minnesota Statutes 1992, section 65A.34, is amended to read:

65A.34 FAIR PLAN; INSPECTIONS AND REPORTS APPLICATION FOR COVERAGE.

Subdivision 1. Any person having an insurable interest in real or tangible personal property shall be entitled upon ~~oral or~~ written application therefor to the facility to a prompt inspection of the property by the inspection bureau without cost.

Subd. 2. The manner and scope of the inspections of FAIR plan business shall be prescribed by the facility with the approval of the commissioner.

Subd. 3. An inspection report shall be made for each property inspected. The report shall cover pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. A representative photograph of the property may be taken during the inspection.

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Subd. 4. During the inspection, the inspector shall point out features of structure and occupancy to the applicant or the applicant's representative and shall indicate those features which may result in condition charges if the risk is accepted. The inspector shall have no authority to advise whether ~~any insurer~~ the facility will provide the coverage.

Subd. 5. Within five business days after the inspection, a copy of the completed inspection report, and any photograph, indicating the pertinent features of building, construction, maintenance, occupancy, and surrounding property shall be sent to the facility. Included with the report shall be a rate make-up statement, including any ~~condition charges or aftercharges which the inspection reveals to be necessary under any standard~~ conditions which are subject to a condition charge under the rating plan approved by the commissioner. A copy of the inspection report shall be made available to the applicant or the applicant's agent upon request. ~~The person requesting the inspection report may designate the insurer or agency to which the inspection report is to be referred.~~

Subd. 6. Before ~~any insurer~~ the facility may deny coverage or write coverage ~~only at an aftercharged rate~~ with a condition charge, it must cause an inspection to be made of any risk submitted to it, without cost to the owner.

Sec. 8. Minnesota Statutes 1992, section 65A.35, is amended to read:

65A.35 FAIR PLAN BUSINESS; DISTRIBUTION AND PLACEMENT ADMINISTRATION.

Subdivision 1. **MEMBERSHIP.** Each insurer which is authorized to write and is engaged in writing within this state, on a direct basis, property or liability insurance or any component thereof contained in a multiperil policy, including homeowners and commercial multiperil policies, shall participate in the ~~industry placement~~ facility, as hereinafter described, as a condition of its authority to write such kinds of insurance within this state.

Subd. 2. **PURPOSES.** The purposes of the facility shall be twofold, as more fully set forth in this section:

(1) To formulate and administer, subject to the approval of the commissioner, a plan assuring fair access to insurance requirements in order that no property shall be denied property or liability insurance through the normal insurance market provided by the private property and casualty insurance industry, except after a physical inspection of such property and a fair evaluation of its individual underwriting characteristics; and

(2) To formulate and administer, subject to the approval of the commissioner, a reinsurance arrangement whereby the members of the facility shall share equitably the responsibility for insuring property which is insurable but for which property or liability insurance cannot be obtained through normal insurance markets.

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Subd. 3. **ORGANIZATION PLAN OF OPERATION.** ~~Within 45 days following August 1, 1968, the industry placement facility shall submit to the commissioner for review a proposed~~ The plan of operation of the facility, consistent with the provisions of sections 65A.31 to 65A.43 65A.42 and the purpose of the facility, which shall provide for the FAIR plan, the reinsurance arrangement, and the economical and efficient administration of the facility, including, but not limited to, management of the facility, ~~preliminary assessment of all members for initial expenses necessary to commence operations,~~ establishment of necessary facilities within this state, assessment of members to defray losses and expenses, commission arrangements, reasonable underwriting standards, acceptance and cession of reinsurance, and procedures for determining amounts of insurance to be provided.

The plan of operation shall be subject to approval by the commissioner ~~and shall take effect ten days after having been approved. If the commissioner disapproves the proposed plan of operation, the facility shall within 15 days submit for review an appropriately revised plan of operation and, if the facility fails to do so, or if the revised plan so filed is unacceptable, the commissioner shall promulgate a plan of operation.~~

Subd. 4. **AMENDMENT OF THE PLAN OR OF OPERATION OF FACILITY.** The facility shall, on its own initiative, subject to prior approval by the commissioner, or at the direction of the commissioner, amend the plan of operation.

Subd. 5. **ADMINISTRATION.** (1) The facility shall be administered by a ~~governing~~ board of nine directors, five of whom are elected by the members of the facility and four who represent the public. Public directors may include licensed insurance agents. Public directors are appointed by the commissioner. At least one elected director shall be a domestic stock insurer, and at least one director shall be a domestic nonstock insurer. In the election of directors, each member of the facility shall be allotted votes bearing the same ratio to the total number of votes to be cast as its degree of participation in the facility bears to the total participation.

(2) Any vacancy among the elected directors shall be filled by a vote of the other elected directors.

(3) If at any time the members fail to elect the required number of directors to the board, or a vacancy remains unfilled for more than 15 days, the commissioner may appoint the directors necessary to constitute a full board of directors.

(4) Vacancies among directors appointed by the commissioner shall be filled by appointment by the commissioner. A person so appointed serves until the end of the term of the director ~~they are~~ the person is replacing.

(5) All directors serve for a period of two years. The terms of all directors begin on January 1 of the year their ~~appointment begins~~ appointments begin.

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(6) The plan of operation must provide for adequate compensation of directors. A per diem amount and a procedure for reimbursement of expenses incurred in the discharge of their duties must be included in the plan. Directors whose employers compensate them while serving on the board or who would submit their compensation to their ~~employer~~ employers are not eligible for compensation under the plan.

Subd. 6. **PARTICIPATION.** All members of the facility shall participate in its expenses ~~and in its profits and~~, losses, and equity distribution in the proportion that the premiums written as herein defined, but excluding that portion, if any, of premiums which is attributable to the reinsurance arrangement maintained by the facility, by each such member during the second preceding calendar year bear to the aggregate premiums written in this state by all members of the facility. Such participation by each member in the facility shall be determined annually by the facility on the basis of such premiums written during the second preceding calendar year as disclosed in the annual statements and other reports filed by the member with the commissioner.

Sec. 9. Minnesota Statutes 1992, section 65A.36, is amended to read:

65A.36 PROCEDURE AFTER INSPECTION AND SUBMISSION UNDERWRITING.

Subdivision 1. The facility shall, ~~within three business days after receipt of an inspection report and application; complete an action report, advising may~~ bind coverage following receipt of the completed application if the risk meets the preliminary underwriting requirements of the facility and if the appropriate binder fee accompanies the application. Agents are not permitted to bind coverage.

Before the expiration of the binder, the facility may request an inspection report to obtain further underwriting information. At least 15 days before the expiration of the binder, the facility shall advise the applicant that:

(a) The risk is acceptable and if aftercharged, the improvements that will be necessary for the removal of each aftercharge, or with or without a condition charge. If a condition charge applies, the facility will tell the insured what improvements are necessary in order to remove the charge;

(b) The risk will be acceptable if the is not acceptable unless improvements noted in the action report by the facility are made by the applicant and confirmed by reinspection; the facility; or

(c) The risk is not acceptable for the reasons stated in the action report by the facility.

Subd. 2. If the risk is accepted, ~~the policy or binder shall~~ an invoice will be delivered to the applicant requiring payment of the premium amount. After receipt of the invoiced premium, the facility shall issue an insurance policy to the applicant within five business days of such acceptance, ~~conditioned upon payment of the premium therefor.~~

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Subd. 3. In the event a risk is declined because it fails to meet reasonable underwriting standards, the applicant shall be so notified. Reasonable underwriting standards shall include, but not be limited to, the following:

(a) Physical condition of the property, such as its construction, heating, wiring, evidence of previous fires, or general deterioration;

(b) Its present use or housekeeping such as vacancy, overcrowding, storage of rubbish, or flammable materials;

(c) Other specific characteristics of ownership, condition, occupancy, or maintenance which are violative of public policy and result in increased exposure to loss.

Neighborhood or area location or any environmental hazard beyond the control of the property owner shall not be deemed to be acceptable criteria for declining a risk.

Subd. 4. In the event that a risk is declined on the basis that it does not meet reasonable underwriting standards, or the coverage will be written on condition that the property be improved, the insurer or facility shall, within five business days, send copies of the inspection and action reports report to the property owner applicant and the commissioner, and shall advise the property owner applicant of the right to and the procedure for an appeal to the governing committee board and to the commissioner.

Subd. 5. ~~If the inspection of the property reveals that there are one or more substandard conditions, aftercharges may be imposed in conformity with the substandard rating plan approved by the commissioner. The facility must within five business days of the receipt of a completed application advise the applicant that the risk has been declined, the risk has been accepted, or that the risk meets preliminary underwriting standards and a binder has been issued.~~

Sec. 10. Minnesota Statutes 1992, section 65A.37, is amended to read:

65A.37 STANDARD POLICY COVERAGE FORMS.

All policies, except homeowners policies, shall be on standard policy forms at rates published by Insurance Services Office and shall be issued for a term of one year. All homeowners, cooperative housing insurance, and condominium insurance policies must be on forms published by Insurance Services Office and approved by the commissioner.

Sec. 11. Minnesota Statutes 1992, section 65A.375, is amended to read:

65A.375 RATES FOR COOPERATIVE HOUSING AND NEIGHBORHOOD REAL ESTATE TRUST INSURANCE TRUSTS.

The commissioner shall set the insurance rates for cooperative housing, organized under chapter 308A, and for neighborhood real estate trusts, charac-

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terized as nonprofit ownership of real estate with resident control. The rates must be actuarially sound.

Sec. 12. Minnesota Statutes 1992, section 65A.38, is amended to read:

65A.38 POLICY CANCELLATION.

Subdivision 1. ~~No insurer~~ The facility shall not cancel a policy or binder issued under ~~this program~~ sections 65A.31 to 65A.42 except for:

(a) Cause which would have been grounds for nonacceptance of the risk under the program had ~~such~~ the cause been known to the ~~insurer~~ facility at the time of acceptance; ~~or~~

(b) ~~For~~ Nonpayment of premium; or

(c) With the approval of the governing committee.

Subd. 2. Except as otherwise required under subdivision 4 or 5, at least 15 days notice of cancellation together with a statement of the reason therefor, shall be sent to the insured with a copy sent to the ~~facility~~ commissioner.

Subd. 3. Any cancellation notice or notice of refusal to renew to the insured shall be accompanied by a statement that the insured has a right of appeal as hereinafter provided.

Subd. 4. Cancellation of homeowner's insurance, as defined in sections 65A.27 to 65A.29 is subject to the provisions of those sections.

Subd. 5. Cancellation of a commercial property insurance policy issued by the facility must comply with sections 60A.30 to 60A.31 and 60A.35 to 60A.38.

Sec. 13. Minnesota Statutes 1992, section 65A.39, is amended to read:

65A.39 RIGHT OF APPEAL APPEALS.

(a) Any applicant or participating insurer shall have the right of appeal to the board of directors, which shall promptly determine the appeal. A decision of the board may be appealed to the commissioner within 30 days from notice of the action or decision. The commissioner shall promptly determine the appeal. Each denial of insurance shall be accompanied by a statement that the applicant has the right of appeal to the board and the commissioner and setting forth the procedures to be followed for the appeal. A final action of the commissioner is subject to judicial review as provided in chapter 14.

(b) In lieu of the appeal to the commissioner under paragraph (a), an applicant or insurer may seek judicial review of the board's action.

Sec. 14. Minnesota Statutes 1992, section 65A.40, is amended to read:

65A.40 PUBLIC EDUCATION PROGRAMS.

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All insurers agree to The facility will undertake a continuing public education program, in cooperation with producers and others, to assure that the ~~basic property insurance inspection and placement program~~ Minnesota FAIR plan act receives adequate public attention.

Sec. 15. Minnesota Statutes 1992, section 65A.41, is amended to read:

65A.41 AGENTS' COOPERATION AGENTS.

Subdivision 1. A person licensed under chapter 60K may submit an application for coverage to the facility and receive a commission from the facility for submitting the application. However, the licensee is not an agent of the facility for purposes of state law. All checks or similar instruments submitted in payment of facility premiums must be made payable to the facility and not the agent.

Subd. 2. No An agent or broker shall be permitted to not refuse to submit an application for basic property insurance within an urban area coverage to the facility if licensed to write and actively engaged in writing such insurance.

Sec. 16. Minnesota Statutes 1992, section 65A.42, is amended to read:

65A.42 PRIVILEGED COMMUNICATIONS IMMUNITY FROM LIABILITY.

There shall be no liability on the part of, and no cause of action of any nature shall arise against insurers, the inspection bureau, the ~~industry placement~~ facility, or their agents or employees or the commissioner or the commissioner's authorized representatives, for any statements made in good faith by them in any reports or communications concerning the property to be insured, or at the time of any hearings conducted in connection therewith, or in the findings required by the provisions of sections 65A.31 to ~~65A.43~~ 65A.42. The inspection reports and communications of the inspection bureau and the ~~industry placement~~ facility shall are not be considered public documents.

Sec. 17. REPEALER.

Minnesota Statutes 1992, sections 65A.33, subdivision 8, and 65A.43, are repealed.

Presented to the governor May 14, 1993

Signed by the governor May 17, 1993, 3:13 p.m.

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