

## CHAPTER 120—H.F.No. 1708

*An act relating to insurance; property and liability; regulating FAIR plan coverage; amending Minnesota Statutes 1998, sections 65A.32; 65A.33, subdivision 3, and by adding a subdivision; 65A.34, subdivisions 1, 4, and 5; 65A.36, subdivisions 1 and 5; 65A.37; 65A.38, subdivision 1; and 65A.42.*

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

Section 1. Minnesota Statutes 1998, section 65A.32, is amended to read:

**65A.32 PURPOSES.**

The purposes of sections 65A.31 to 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.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 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. FAIR plan 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 lack of knowledge of its existence; and

(6) to provide for the formulation and administration by the 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.

Sec. 2. Minnesota Statutes 1998, section 65A.33, subdivision 3, is amended to read:

Subd. 3. "Property or liability insurance" means the coverage against direct loss to real or tangible personal property at a fixed location that is provided in the standard fire policy, extended coverage endorsement, homeowners insurance, as defined in section 65A.27, subdivision 4, cooperative housing insurance, condominium unit owners insurance, builders risk, and such vandalism and malicious mischief insurance and such other classes of insurance as may be added to the program with respect to said property by amendment as hereinafter provided. Property or liability insurance does not include automobile, commercial liability, or such manufacturing risks as may be excluded by the commissioner.

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Sec. 3. Minnesota Statutes 1998, section 65A.33, is amended by adding a subdivision to read:

Subd. 9. BOARD. "Board" means the governing board of directors of the Minnesota property insurance placement facility.

Sec. 4. Minnesota Statutes 1998, section 65A.34, subdivision 1, is amended to read:

Subdivision 1. Any person having an insurable interest in real or tangible personal property who has been canceled, nonrenewed, or otherwise rejected for coverage in the private market shall be entitled upon written to submit an application therefor for coverage to the facility to a prompt. If an inspection of the property by the inspection bureau without premises is performed, it must be done at no cost to the applicant.

Sec. 5. Minnesota Statutes 1998, section 65A.34, subdivision 4, is amended to read:

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. Either during the inspection or immediately thereafter, an employee of the FAIR plan shall inform the applicant as to the features that result in a condition charge if the risk is accepted. The No inspector shall have no authority to advise whether the facility will provide the coverage.

Sec. 6. Minnesota Statutes 1998, section 65A.34, subdivision 5, is amended to read:

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 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. Within ten business days after the inspection, the FAIR plan shall prepare or have prepared a completed inspection report that includes conditions that are subject to a condition charge under the rating plan approved by the commissioner. A copy of the inspection report must be made available to the applicant or the applicant's agent upon request.

Sec. 7. Minnesota Statutes 1998, section 65A.36, subdivision 1, is amended to read:

Subdivision 1. The facility 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. The facility shall issue a policy if the risk meets preliminary underwriting requirements. The facility may request an inspection report to obtain further underwriting information. If the inspection reveals that the applicant is not eligible for the coverage applied for, the facility shall inform the applicant within 59 days of the inception of the policy that the policy will be rescinded under section 65A.01, subdivision 3, paragraph (b), or canceled under section 65A.38. If the applicant is eligible for other coverage provided by the facility, the facility will replace the rescinded or canceled policy with a policy providing coverage for which the applicant is eligible.

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

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~~binder~~ Before the 60th day after the inception of the policy, the facility shall advise the applicant that:

(a) The risk is acceptable 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 is not acceptable unless improvements noted by the facility are made by the applicant and confirmed by the facility; or

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

Sec. 8. Minnesota Statutes 1998, section 65A.36, subdivision 5, is amended to read:

Subd. 5. 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~~ policy has been issued.

Sec. 9. Minnesota Statutes 1998, section 65A.37, is amended to read:

**65A.37 POLICY FORMS.**

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

Sec. 10. Minnesota Statutes 1998, section 65A.38, subdivision 1, is amended to read:

Subdivision 1. The facility shall not cancel a policy ~~or binder~~ issued under sections 65A.31 to 65A.42 except for:

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

(b) nonpayment of premium; or

(c) with the approval of the governing ~~committee~~ board.

Sec. 11. Minnesota Statutes 1998, section 65A.42, is amended to read:

**65A.42 IMMUNITY FROM LIABILITY.**

There shall be no civil or criminal liability on the part of, and no cause of action of any nature shall arise against insurers, the inspection bureau, the facility, ~~or their agents~~ the governing board, or employees of the facility or the commissioner or the commissioner's authorized representatives, for any statements made in good faith acts or omissions 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 if the acts or omissions were in good faith and within the scope of their responsibilities under sections 65A.31 to 65A.42. The inspection reports and communications of the inspection bureau vendors and the facility are not public documents.

Presented to the governor April 30, 1999

Signed by the governor May 4, 1999, 11:20 a.m.

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