

CHAPTER 108—S.F.No. 1045

An act relating to commerce; regulating continuing education and prelicensing requirements, insurance coverages, certain disclosures, nonadmitted insurers, insolvencies, real estate closing agents, adjusters, and appraisers; amending Minnesota Statutes 2010, sections 45.011, subdivision 1; 45.25, by adding subdivisions; 45.30, subdivision 7, by adding a subdivision; 45.35; 60A.06, subdivision 3; 60A.19, subdivision 8; 60A.196; 60A.198; 60A.199, subdivision 1; 60A.201; 60A.202; 60A.203; 60A.204, subdivision 2; 60A.205, subdivisions 1, 2; 60A.206, subdivisions 1, 3; 60A.207; 60A.208; 60A.2085, subdivisions 1, 3, 7, 8; 60A.2086, subdivisions 1, 2; 60A.209, subdivision 1; 60K.56, subdivision 6; 62A.095, subdivision 1; 62A.318, subdivision 17; 62E.14, subdivision 3, by adding a subdivision; 62J.81, subdivision 1; 62L.03, subdivision 3; 72A.20, subdivision 24; 72B.041, subdivision 5; 79A.06, subdivision 5; 79A.24, by adding subdivisions; 82.641, subdivision 1; 82B.11, subdivision 6; 82B.13, by adding a subdivision; 82B.14; 82C.08, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 45; 72B.

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

Section 1. Minnesota Statutes 2010, section 45.011, subdivision 1, is amended to read:

Subdivision 1. **Scope.** As used in chapters 45 to 80C, 80E to 83, 155A, 332, 332A, 332B, 345, and 359, and sections 123A.21, subdivision 7, paragraph (a), clause (23); 123A.25; 325D.30 to 325D.42; 326B.802 to 326B.885; 386.61 to 386.78; 471.617; and 471.982, unless the context indicates otherwise, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2010, section 45.25, is amended by adding a subdivision to read:

Subd. 2a. **Classroom course.** "Classroom course" means an educational process based on no geographical separation of instructor and learner.

Sec. 3. Minnesota Statutes 2010, section 45.25, is amended by adding a subdivision to read:

Subd. 5a. **Distance learning course.** "Distance learning course" means an education process based on the geographical separation of instructor and learner. This includes, but is not limited to:

- (1) an interactive Internet course; and
- (2) a course taught live by the instructor via the Internet, video, or other electronic means.

Sec. 4. Minnesota Statutes 2010, section 45.25, is amended by adding a subdivision to read:

Subd. 14. **Self-study course.** "Self-study course" means a distance learning course that is not entirely taught by the instructor live via the Internet, video, or other electronic means.

Sec. 5. Minnesota Statutes 2010, section 45.30, is amended by adding a subdivision to read:

Subd. 6a. **Professional designation coursework.** Approved courses leading to the achievement or maintenance of a professional designation listed in section 60K.36, subdivision 4a, qualify for continuing education.

Sec. 6. Minnesota Statutes 2010, section 45.30, subdivision 7, is amended to read:

Subd. 7. **Courses open to all.** (a) All course offerings must be open to any interested individuals. Access may be restricted by the education provider based on class size only, except that access to a course offering sponsored by, offered by, or affiliated with an insurance company or agency may be restricted to agents of the company or agency. Courses must not be approved if attendance is restricted to any particular group of people, except for company-sponsored courses allowed by statute.

(b) Notwithstanding paragraph (a), attendance at approved courses leading to the achievement or maintenance of a professional designation listed in section 60K.36, subdivision 4a, may be limited to those producers seeking the professional designation or those producers who have met prerequisite coursework for the course offering. Courses leading to the achievement or maintenance of a professional designation listed in section 60K.36, subdivision 4a, may require a prerequisite such as candidacy for the designation or sequential coursework relating to the attainment or maintenance of the designation. A course leading to the achievement or maintenance of a professional designation listed in section 60K.36, subdivision 4a, is not considered to be company sponsored unless it is provided by an insurance company.

Sec. 7. **[45.304] VERIFICATION REQUIREMENTS.**

A self-study course must not be approved unless it is objectively verifiable that:

- (1) it includes a closed-book, end-of-course examination; and
- (2) successful completion of the end-of-course examination can be objectively documented.

Sec. 8. Minnesota Statutes 2010, section 45.35, is amended to read:

45.35 FACILITIES.

Each course of study, except self-study courses, must be conducted in a classroom or other facility that is adequate to comfortably accommodate the faculty and the number of students enrolled. The education provider may limit the number of students enrolled in a course. Approved courses must not be held on the premises of a company doing business in the regulated area, except for company-sponsored courses allowed by statute or noncompany sponsored courses offered by a bona fide trade association. A bona fide trade association may offer noncompany sponsored courses on the premises of an

insurance company or agency so long as the course is not restricted to employees or appointed agents of the insurance company or agency.

Sec. 9. Minnesota Statutes 2010, section 60A.06, subdivision 3, is amended to read:

Subd. 3. **Limitation on combination policies.** (a) Unless specifically authorized by subdivision 1, clause (4), it is unlawful to combine in one policy coverage permitted by subdivision 1, clauses (4) and (5)(a). This subdivision does not prohibit the simultaneous sale of these products, but the sale must involve two separate and distinct policies.

(b) This subdivision does not apply to group policies.

(c) This subdivision does not apply to policies permitted by subdivision 1, clause (4), that contain benefits providing acceleration of life, endowment, or annuity benefits in advance of the time they would otherwise be payable, or to long-term care policies as defined in section 62A.46, subdivision 2, or chapter 62S.

(d) This subdivision does not prohibit combining life coverage with one or more of the following coverages:

(1) specified disease or illness coverage;

(2) other limited benefit health coverage;

(3) hospital indemnity coverage;

(4) other fixed indemnity products,

provided that the prescribed minimum standards applicable to those categories of coverage are met.

Sec. 10. Minnesota Statutes 2010, section 60A.19, subdivision 8, is amended to read:

Subd. 8. **Insurance from unlicensed foreign companies.** Any person, firm, or corporation ~~desiring to obtain insurance upon any property, interests, or risks of any nature other than life insurance in this state in companies not authorized to do business in the state whose home state is Minnesota, that procures insurance on any property, interests, or risks of any nature other than life insurance directly from a nonadmitted insurer,~~ must agree to file with the commissioner of revenue all returns required under chapter 297I and pay to the commissioner of revenue any amounts required to be paid under chapter 297I. Upon that agreement, the commissioner of commerce shall issue a license, good for one year. Insurance procured under the license is valid and the provisions of the policies are considered to be in accordance, and construed as if identical in effect, with the standard policy prescribed by the laws of this state. The insurers may enter the state to perform any act necessary or proper in the conduct of the business.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 11. Minnesota Statutes 2010, section 60A.196, is amended to read:

60A.196 DEFINITIONS.

Unless the context otherwise requires, the following terms have the meanings given them for the purposes of sections 60A.195 to 60A.209:

~~(a) "Surplus lines insurance" means insurance placed with an insurer permitted to transact the business of insurance in this state only pursuant to sections 60A.195 to 60A.209.~~

~~(b) "Eligible surplus lines insurer" means an insurer recognized as eligible to write insurance business under sections 60A.195 to 60A.209 but not licensed by any other Minnesota law to transact the business of insurance.~~

~~(c) "Ineligible surplus lines insurer" means an insurer not recognized as an eligible surplus lines insurer pursuant to sections 60A.195 to 60A.209 and not licensed by any other Minnesota law to transact the business of insurance. "Ineligible surplus lines insurer" includes a risk retention group as defined under the Liability Risk Retention Act, Public Law 99-563.~~

~~(d) "Surplus lines licensee" or "licensee" means a person licensed under sections 60A.195 to 60A.209 to place insurance with an eligible or ineligible surplus lines insurer.~~

~~(e) "Association" means an association registered under section 60A.208.~~

~~(f) "Alien insurer" means any insurer which is incorporated or otherwise organized outside of the United States.~~

~~(g) "Insurance laws" means chapters 60 to 79 inclusive.~~

~~(h) "Stamping" means electronically assigning a unique identifying number that is specific to a submitted policy, contract, or insurance document.~~

(a) "Affiliated group" means a group which includes the insured and any entity, or group of entities, that controls, is controlled by, or is under common control with the insured. An entity has control over another entity when: (1) the entity directly, indirectly, or acting through one or more persons owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity; or (2) the entity controls in any manner the election of a majority of the directors or trustees of the other entity.

(b) "Alien insurer" means any insurer which is incorporated or otherwise organized outside of the United States.

(c) "Association" means an association registered under section 60A.208.

(d) "Eligible surplus lines insurer" means a nonadmitted insurer recognized as eligible to write insurance business under sections 60A.195 to 60A.209.

(e) "Exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(1) the person employs or retains a qualified risk manager to negotiate insurance coverage;

(2) the person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of \$100,000 in the immediately preceding 12 months;

(3) the person meets at least one of the following criteria:

(i) the person possesses a net worth in excess of \$20,000,000, as such amount is adjusted pursuant to clause (4);

(ii) the person generates annual revenues in excess of \$50,000,000, as such amount is adjusted pursuant to clause (4);

(iii) the person employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate;

(iv) the person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least \$30,000,000, as such amount is adjusted pursuant to clause (4); or

(v) the person is a municipality with a population in excess of 50,000 persons.

(4) Effective January 1, 2015, and every five years thereafter, the amounts in clause (3), items (i), (ii), and (iv), shall be adjusted to reflect the percentage change for the five-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(f) "Home state" means the state in which an insured maintains its principal place of business, or in the case of an individual, the individual's principal residence. If 100 percent of the insured risk is located out of the state, the term means the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated. If more than one insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term means the home state of the member of the affiliated group that has the largest percentage of premium attributed to it under that insurance contract.

(g) "Ineligible surplus lines insurer" means a nonadmitted insurer not recognized as an eligible surplus lines insurer under sections 60A.195 to 60A.209.

(h) "Insurance laws" means chapters 60 to 79 inclusive.

(i) "Nonadmitted insurance" means any property and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer in this state only under sections 60A.195 to 60A.209.

(j) "Nonadmitted insurer" means an insurer not licensed to engage in the business of insurance in Minnesota, but does not include a risk retention group, as the term is defined in section 2(a)(4) of the Liability Risk Retention Act of 1986, United States Code, title 15, section 3901(a)(4).

(k) "Qualified risk manager" means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements:

(1) the person is an employee of, or third-party consultant retained by, the commercial policyholder;

(2) the person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance;

(3) the person:

(i) has a bachelor's degree or higher from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a state insurance commissioner or other state regulatory official or entity to demonstrate minimum competence in risk management and has three years of experience in risk financing, claims administration, loss prevention, risk and insurance analysis, or purchasing commercial lines of insurance;

(ii) has a designation as a Chartered Property and Casualty Underwriter (CPCU) issued by the American Institute for CPCU/Insurance Institute of America, an Associate

in Risk Management (ARM) issued by the American Institute for CPCU/Insurance Institute of America, a Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education and Research, a RIMS Fellow (RF) issued by the Global Risk Management Institute, or any other designation, certification, or license determined by a state insurance commissioner or other state insurance regulatory official or entity to demonstrate minimum competency in risk management;

(iii) has at least seven years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance and one of the designations specified in clause (ii);

(iv) has at least ten years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; or

(v) has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a state insurance commissioner or other state regulatory official or entity to demonstrate minimum competence in risk management.

(l) "Stamping" means electronically assigning a unique identifying number that is specific to a submitted policy, contract, or insurance document.

(m) "Surplus lines broker" or "broker" means an individual, firm, or corporation which is licensed in this state to sell, solicit, or negotiate insurance on properties, risks, or exposures located or to be performed in this state with nonadmitted insurers only under sections 60A.195 to 60A.209.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 12. Minnesota Statutes 2010, section 60A.198, is amended to read:

60A.198 TRANSACTION OF ~~SURPLUS~~ ~~LINES~~ NONADMITTED INSURANCE.

Subdivision 1. **License required.** A person, as defined in section 60A.02, subdivision 7, shall not act in any other manner as an agent or broker in the transaction of ~~surplus lines nonadmitted~~ insurance unless licensed under sections 60A.195 to 60A.209. A surplus lines license is not required for a licensed agent who assists in the placement of ~~surplus lines nonadmitted~~ insurance with a surplus lines ~~licensee~~ broker pursuant to sections 60A.195 to 60A.209. This subdivision does not apply to nonadmitted insurance procured by a surplus lines broker when an insured's home state is a state other than Minnesota.

Subd. 2. **Compliance with statutory provisions.** A person shall not offer, solicit, make a quotation on, sell, or issue a policy of insurance, binder, or any other evidence of insurance with ~~an eligible or ineligible surplus lines~~ a nonadmitted insurer, except in compliance with sections 60A.195 to 60A.209. This subdivision does not apply when an insured's home state is a state other than Minnesota.

Subd. 3. **Procedure for obtaining license.** A person licensed as an agent in this state pursuant to other law may obtain a surplus lines license by doing the following:

(a) filing an application in the form and with the information the commissioner may reasonably require to determine the ability of the applicant to act in accordance with sections 60A.195 to 60A.209;

(b) maintaining an agent's license in this state;

(c) registering with the association created pursuant to section 60A.2085;

(d) agreeing to file with the commissioner of revenue all returns required by chapter 297I and paying to the commissioner of revenue all amounts required under chapter 297I;

(e) agreeing to file all documents required pursuant to section 60A.2086 and to pay the stamping fee assessed pursuant to section 60A.2085, subdivision 7; and

(f) paying a fee as prescribed by section 60K.55.

Subd. 4. **Licensee's Broker's powers.** A surplus lines licensee broker may do any or all of the following:

(a) place insurance on risks in this state with eligible surplus lines insurers;

(b) place insurance on risks in this state with ineligible surplus lines insurers in strict compliance with section 60A.209. If the insurance is provided through the participation of several surplus lines nonadmitted insurers and the licensee broker has reason to believe that a substantial portion of the insurance would be assumed by eligible surplus lines insurers, then with respect to the ineligible surplus lines insurers, the insured or the insured's representative shall be informed as provided in section 60A.209, subdivision 1, clause (a); or

(c) engage in any other acts expressly or implicitly authorized by sections 60A.195 to 60A.209 and the other insurance laws.

Subd. 5. **Disclosures.** Before placement of insurance with an eligible surplus lines insurer, a surplus lines licensee broker shall inform an insured or the insured's representative that coverage may be placed in conformance with sections 60A.195 to 60A.209 with an insurer not licensed in this state and that payment of loss is not guaranteed in the event of insolvency of the eligible surplus lines insurer.

Subd. 7. **Participation in national producer database for surplus lines brokers.** For the purposes of carrying out the provisions of the Nonadmitted and Reinsurance Reform Act of 2010, the commissioner is authorized to utilize the national insurance producer database of the National Association of Insurance Commissioners, or any other equivalent uniform national database, for the licensure of surplus lines brokers and for renewal of the licenses.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 13. Minnesota Statutes 2010, section 60A.199, subdivision 1, is amended to read:

Subdivision 1. **Examination of books and records.** If the commissioner considers it necessary, the commissioner may examine the books and records of a surplus lines licensee broker to determine whether the licensee broker is conducting business in accordance with sections 60A.195 to 60A.209. For the purposes of facilitating examinations, the licensee broker shall allow the commissioner free access at reasonable times to all of the licensee's broker's books and records relating to the transactions to

which sections 60A.195 to 60A.209 apply. If an examination is conducted, the cost of the examination shall be paid by the surplus line agent or agency.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 14. Minnesota Statutes 2010, section 60A.201, is amended to read:

60A.201 PLACEMENT OF INSURANCE BY ~~LICENSEE~~ BROKER.

Subdivision 1. **Restrictions.** Insurance shall not be placed by the surplus lines ~~licensee~~ broker with ~~an eligible or ineligible surplus lines~~ a nonadmitted insurer when coverage is available from a licensed insurer.

Subd. 2. **Availability of other coverage; presumption.** There shall be a rebuttable presumption that the following coverages are available from a licensed insurer:

(a) all mandatory automobile insurance coverages required by chapter 65B;

(b) private passenger automobile physical damage coverage;

(c) homeowners and property insurance on owner-occupied dwellings whose value is less than \$500,000. This figure shall be changed annually by the commissioner by the same percentage as the Consumer Price Index for the Minneapolis-St. Paul Metropolitan Area is changed;

(d) any coverage readily available from three or more licensed insurers unless the licensed insurers quote a premium and terms not competitive with a premium and terms quoted by an eligible surplus lines insurer; and

(e) workers' compensation insurance, except excess workers' compensation insurance which is not available from the Workers' Compensation Reinsurance Association.

Subd. 3. **Unavailability of other coverage; presumption.** There shall be a rebuttable presumption that the following coverages are unavailable from a licensed insurer:

(a) coverages where one portion of the risk is acceptable to licensed insurers but another portion of the same risk is not acceptable. The entire coverage may be placed with eligible surplus lines insurers if it can be shown that the eligible surplus lines insurer will accept the entire coverage but not the rejected portion alone; and

(b) any coverage that the ~~licensee~~ broker is unable to procure after diligent search among licensed insurers.

Subd. 5. **Streamlined application for exempt commercial purchasers.** A surplus lines broker is not required to make a diligent search to determine whether the full amount or type of insurance can be obtained from licensed insurers when the broker is seeking to procure or place nonadmitted insurance for an exempt commercial purchaser provided:

(1) the broker procuring or placing the nonadmitted insurance has disclosed to the exempt commercial purchaser that the insurance may or may not be available from a licensed insurer that may provide greater protection with more regulatory oversight; and

(2) the exempt commercial purchaser has subsequently requested in writing for the broker to procure or place the insurance from a nonadmitted insurer.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 15. Minnesota Statutes 2010, section 60A.202, is amended to read:

60A.202 EVIDENCE OF PLACEMENT OF INSURANCE BY ~~LICENSEE~~ BROKER.

Subdivision 1. **Restriction.** Only a surplus lines ~~licensee~~ broker shall issue evidence of placement of insurance with ~~an eligible or ineligible surplus lines~~ a nonadmitted insurer.

Subd. 2. **Written communication of coverage to be delivered.** A ~~licensee~~ broker shall, within seven working days after the date on which the risk was bound or the insured or applicant was advised that coverage has been or will be obtained, deliver to the insured or the insured's representative a policy, a written binder, a certificate or other written evidence of insurance placed with ~~an eligible or ineligible surplus lines~~ a nonadmitted insurer.

Subd. 3. **Contents of written communication.** The written communication showing that insurance has been obtained shall identify all known ~~surplus lines nonadmitted~~ insurers directly assuming any risk of loss. If there is more than one ~~surplus lines nonadmitted~~ insurer, any document issued or certified by the ~~licensee~~ broker pursuant to subdivision 2 shall specify, to the extent known by the ~~licensee~~ broker, whether the obligation is joint or several, and if the obligation is several, the proportion of the obligation assumed by each insurer.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 16. Minnesota Statutes 2010, section 60A.203, is amended to read:

60A.203 RETENTION OF RECORDS.

Each surplus lines ~~licensee~~ broker shall keep a separate account of each transaction entered into pursuant to sections 60A.195 to 60A.209. Evidence of these transactions shall be documented in the form and manner designated by the commissioner and retained by the ~~licensee~~ broker for a minimum of five years. The forms must be readily available for review and audit by the commissioner.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 17. Minnesota Statutes 2010, section 60A.204, subdivision 2, is amended to read:

Subd. 2. **Regulation of fees and commissions.** A surplus lines ~~licensee~~ broker may charge a fee and commission, in addition to the premium, that is not excessive or discriminatory. The ~~licensee~~ broker shall maintain complete documentation of all fees and commissions charged.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 18. Minnesota Statutes 2010, section 60A.205, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** A surplus lines ~~licensee~~ broker may be compensated by an eligible surplus lines insurer and the ~~licensee~~ broker may compensate a licensed agent in this state for obtaining ~~surplus lines nonadmitted~~ insurance business. A licensed agent authorized by the ~~licensee~~ broker may collect a premium on behalf of the ~~licensee~~ broker, and as between the insured and the ~~licensee~~ broker, the ~~licensee~~ broker shall be considered to have received the premium if the premium payment has been made to the agent.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 19. Minnesota Statutes 2010, section 60A.205, subdivision 2, is amended to read:

Subd. 2. **Consequences of receipt.** If an eligible surplus lines insurer has assumed a risk, and if the premium for that risk has been received by the ~~licensee~~ broker who placed the insurance, then as between the insurer and the insured, the insurer shall be considered to have received the premium due to it for the coverage and shall be liable to the insured for any loss covered by the insurance and for the unearned premium upon cancellation of the insurance, regardless of whether the ~~licensee~~ broker is indebted to the insurer.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 20. Minnesota Statutes 2010, section 60A.206, subdivision 1, is amended to read:

Subdivision 1. **Insurers to be recognized by commissioner.** A surplus lines ~~licensee~~ broker shall place ~~surplus lines nonadmitted~~ insurance only with insurers which are in a stable and unimpaired financial condition. An insurer recognized by the commissioner as an eligible surplus lines insurer pursuant to subdivision 2 shall be considered to meet the requirements of this subdivision. Recognition as an eligible surplus lines insurer shall be conditioned upon the insurers continued compliance with sections 60A.195 to 60A.209.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 21. Minnesota Statutes 2010, section 60A.206, subdivision 3, is amended to read:

Subd. 3. **Standards to be met by insurers.** (a) The commissioner shall recognize the insurer as an eligible surplus lines insurer when satisfied that the insurer is in a stable, unimpaired financial condition and that the insurer is qualified to provide coverage in compliance with sections 60A.195 to 60A.209. If filed with full supporting documentation before July 1 of any year, applications submitted under subdivision 2 shall be acted upon by the commissioner before December 31 of the year of submission.

(b) The commissioner shall not authorize ~~an~~ a foreign insurer as an eligible surplus lines insurer unless the insurer ~~continuously maintains capital and surplus of at least \$3,000,000 and transaction of business by the insurer is not hazardous, financially or otherwise, to its policyholders, its creditors, or the public.~~ Each alien surplus lines insurer shall have current financial data filed with the National Association of Insurance Commissioners Nonadmitted Insurers Information Office.;

(1) is domiciled within a United States jurisdiction and authorized to write the type of insurance in its domiciliary jurisdiction; and

(2) qualifies under one of the following items:

(i) has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of:

(A) the minimum capital and surplus requirements under the laws of Minnesota; or

(B) \$15,000,000; or

(ii) the requirements of item (i)(A) may be satisfied by an insurer's possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the commissioner. The finding shall be based upon factors such as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability, and company record and reputation within the industry. In no event shall the commissioner make an affirmative finding of acceptability when the surplus lines insurer's capital and surplus is less than \$4,500,000.

(c) Eligible surplus lines insurers domiciled within the United States shall file an annual statement and an annual financial audit, under the terms and conditions of section 60A.13, subdivisions 1, 3a, and 6, and are subject to the penalties of section 72A.061, and are subject to section 60A.03, subdivision 5, in regard to those requirements. The commissioner also has the powers provided in section 60A.13, subdivision 2, in regard to eligible surplus lines insurers.

(d) Eligible surplus lines insurers domiciled outside the United States shall file an annual statement on the standard nonadmitted insurers information office financial reporting format as prescribed by the National Association of Insurance Commissioners and an annual financial audit performed by an independent accounting firm. The commissioner shall not prohibit a surplus lines broker from placing nonadmitted insurance with, or procuring nonadmitted insurance from, an alien insurer that is included on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners International Insurers Department.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 22. Minnesota Statutes 2010, section 60A.207, is amended to read:

60A.207 POLICIES TO INCLUDE NOTICE.

Each policy, cover note, or instrument evidencing ~~surplus lines~~ nonadmitted insurance from an eligible surplus lines insurer which is delivered to an insured or a representative of an insured shall have printed, typed, or stamped upon its face in not less than 10 point type, the following notice: "THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THE INSURER IS AN ELIGIBLE SURPLUS LINES INSURER BUT IS NOT OTHERWISE LICENSED BY THE STATE OF MINNESOTA. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED." This notice shall not be covered or concealed in any manner.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 23. Minnesota Statutes 2010, section 60A.208, is amended to read:

60A.208 ~~LICENSEE~~ BROKER ASSOCIATION.

Subdivision 1. ~~Licensee's~~ **Broker's right to associate.** Surplus lines ~~licensees~~ brokers may associate and the commissioner may register the association for one or more of the following purposes:

(a) advising the commissioner as to the availability of ~~surplus lines~~ nonadmitted insurance coverage and market practices and standards for ~~surplus lines~~ nonadmitted insurers and ~~licensees~~ brokers;

(b) collecting and furnishing records and statistics; or

(c) submitting recommendations regarding administration of sections 60A.195 to 60A.209.

Subd. 2. **Filing requirements.** (a) Each association shall file with the commissioner for approval all of the following:

(1) a copy of the association's constitution and articles of agreement or association, or the association's certificate of incorporation and bylaws and any rules governing the association's activities; and

(2) an agreement that, as a condition of continued registration under subdivision 1, the commissioner may examine the association.

(b) Each association shall file with the commissioner and keep current all of the following:

(1) a list of members; and

(2) the name and address of a resident of this state upon whom notices or orders of the commissioner or process issued by the commissioner may be served.

Subd. 3. **Commissioner's powers; suspension of registration.** The commissioner may refuse to register, or may suspend or revoke the registration of an association for any of the following reasons:

(a) it reasonably appears that the association will not be able to carry out the purposes of sections 60A.195 to 60A.209;

(b) the association fails to maintain and enforce rules which will assure that members of the association and persons associated with those members comply with sections 60A.195 to 60A.209, other applicable chapters of the insurance laws and rules promulgated under either;

(c) the rules of the association do not assure a fair representation of its members in the selection of directors and in the administration of its affairs;

(d) the rules of the association do not provide for an equitable allocation of reasonable dues, fees, and other charges among members;

(e) the rules of the association impose a burden on competition; or

(f) the association fails to meet other applicable requirements prescribed in sections 60A.195 to 60A.209.

Subd. 4. **Membership limited to ~~licensees~~ brokers.** An association shall deny membership to any person who is not a ~~licensee~~ broker.

Subd. 5. **Association is voluntary.** No ~~licensee~~ broker may be compelled to join an association as a condition of receiving a license or continuing to be licensed under sections 60A.195 to 60A.209.

Subd. 6. **Financial statement to be filed.** Each association shall annually file a certified audited financial statement.

Subd. 7. **Reports and recommendations by the association.** An association may submit reports and make recommendations to the commissioner regarding the financial condition of any eligible surplus lines insurer. These reports and recommendations shall not be considered to be public information. There shall not be liability on the part of, or a cause of action of any nature shall not arise against, eligible surplus lines insurers, the association or its agents or employees, the directors, or the commissioner or authorized representatives of the commissioner, for statements made by them in any reports or recommendations made under this subdivision.

Subd. 8. **Operating assessment.** (a) Upon request from the association, the commissioner may approve the levy of an assessment of not more than one-half of one percent of premiums charged pursuant to sections 60A.195 to 60A.209 for operation of the association to the extent that the operation relieves the commissioner of duties otherwise required of the commissioner pursuant to sections 60A.195 to 60A.209. Any assessment so approved may be subtracted from the premium tax owed by the ~~licensee~~ broker under chapter 297I.

(b) The association may revoke the membership and the commissioner may revoke the license in this state, of any ~~licensee~~ broker who fails to pay an assessment when due, if the assessment has been approved by the commissioner.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 24. Minnesota Statutes 2010, section 60A.2085, subdivision 1, is amended to read:

Subdivision 1. **Association created; duties.** There is hereby created a nonprofit association to be known as the Surplus Lines Association of Minnesota. The association is not a state agency for purposes of chapter 16A, 16B, 16C, or 43A. All surplus lines ~~licensees~~ brokers are members of this association. Section 60A.208 does not apply to the association created pursuant to the provisions of this section. The association shall perform its functions under the plan of operation established under subdivision 3 and must exercise its powers through a board of directors established under subdivision 2 as set forth in the plan of operation. The association shall be authorized and have the duty to:

(1) receive, record, and stamp all ~~surplus lines~~ nonadmitted insurance documents that surplus lines ~~licensees~~ brokers are required to file with the association;

(2) prepare and deliver monthly to the commissioners of revenue and commerce a report regarding surplus lines business. The report must include a list of all the business procured during the preceding month, in the form the commissioners prescribe;

(3) educate its members regarding the surplus lines law of this state including insurance tax responsibilities and the rules and regulations of the commissioners of revenue and commerce relative to ~~surplus lines~~ nonadmitted insurance;

(4) communicate with organizations of agents, brokers, and admitted insurers with respect to the proper use of the surplus lines market;

- (5) employ and retain persons necessary to carry out the duties of the association;
- (6) borrow money necessary to effect the purposes of the association and grant a security interest or mortgage in its assets, including the stamping fees charged pursuant to subdivision 7 in order to secure the repayment of any such borrowed money;
- (7) enter contracts necessary to effect the purposes of the association;
- (8) provide other services to its members that are incidental or related to the purposes of the association;
- (9) form and organize itself as a nonprofit corporation under chapter 317A, with the powers set forth in section 317A.161 that are not otherwise limited by this section or in its articles, bylaws, or plan of operation;
- (10) file such applications and take such other action as necessary to establish and maintain the association as tax exempt pursuant to the federal income tax code;
- (11) recommend to the commissioner of commerce revisions to Minnesota law relating to the regulation of surplus-lines nonadmitted insurance in order to improve the efficiency and effectiveness of that regulation; and
- (12) take other actions reasonably required to implement the provisions of this section.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 25. Minnesota Statutes 2010, section 60A.2085, subdivision 3, is amended to read:

Subd. 3. **Plan of operation.** (a) The plan of operation shall provide for the formation, operation, and governance of the association as a nonprofit corporation under chapter 317A. The plan of operation must provide for the election of a board of directors by the members of the association. The board of directors shall elect officers as provided for in the plan of operation. The plan of operation shall establish the manner of voting and may weigh each member's vote to reflect the annual surplus-lines nonadmitted insurance premium written by the member. Members employed by the same or affiliated employers may consolidate their premiums written and delegate an individual officer or partner to represent the member in the exercise of association affairs, including service on the board of directors.

(b) The plan of operation shall provide for an independent audit once each year of all the books and records of the association and a report of such independent audit shall be made to the board of directors, the commissioner of revenue, and the commissioner of commerce, with a copy made available to each member to review at the association office.

(c) The plan of operation and any amendments to the plan of operation shall be submitted to the commissioner and shall be effective upon approval in writing by the commissioner. The association and all members shall comply with the plan of operation or any amendments to it. Failure to comply with the plan of operation or any amendments shall constitute a violation for which the commissioner may issue an order requiring discontinuance of the violation.

(d) If the interim board of directors fails to submit a suitable plan of operation within 60 days following the creation of the interim board, or if at any time thereafter the association fails to submit required amendments to the plan, the commissioner may submit

to the association a plan of operation or amendments to the plan, which the association must follow. The plan of operation or amendments submitted by the commissioner shall continue in force until amended by the commissioner or superseded by a plan of operation or amendment submitted by the association and approved by the commissioner. A plan of operation or an amendment submitted by the commissioner constitutes an order of the commissioner.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 26. Minnesota Statutes 2010, section 60A.2085, subdivision 7, is amended to read:

Subd. 7. **Stamping fee.** The services performed by the association shall be funded by a stamping fee assessed for each premium-bearing document submitted to the association. The stamping fee shall be established by the board of directors of the association from time to time. The stamping fee shall be paid by the insured to the surplus lines ~~licensee~~ broker and remitted to the association by the surplus lines ~~licensee~~ broker in the manner established by the association.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 27. Minnesota Statutes 2010, section 60A.2085, subdivision 8, is amended to read:

Subd. 8. **Data classification.** Unless otherwise classified by statute, a temporary classification under section 13.06, or federal law, information obtained by the commissioner from the association is public, except that any data identifying insureds or the Social Security number of a ~~licensee~~ broker or any information derived therefrom is private data on individuals or nonpublic data as defined in section 13.02, subdivisions 9 and 12.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 28. Minnesota Statutes 2010, section 60A.2086, subdivision 1, is amended to read:

Subdivision 1. **Submission of documents to Surplus Lines Association of Minnesota; certification.** (a) A surplus lines ~~licensee~~ broker shall submit every insurance policy or contract issued under the ~~licensee's~~ broker's license to the Surplus Lines Association of Minnesota for recording and stamping. The submission and stamping must be effected through electronic means. The submission must include:

- (1) the name of the insured;
- (2) a description and location of the insured property or risk;
- (3) the amount insured;
- (4) the gross premiums charged or returned;
- (5) the name of the ~~surplus lines~~ nonadmitted insurer from whom coverage has been procured;
- (6) the kind or kinds of insurance procured; and

(7) the amount of premium subject to tax.

(b) The submission of insurance policies or contracts to the Surplus Lines Association of Minnesota constitutes a certification by the surplus lines ~~licensee~~ broker, or by the insurance producer who presented the risk to the surplus lines ~~licensee~~ broker for placement as a surplus lines risk, that the insurance policies or contracts were procured in accordance with sections 60A.195 to 60A.209.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 29. Minnesota Statutes 2010, section 60A.2086, subdivision 2, is amended to read:

Subd. 2. **Stamping requirement; penalty.** (a) It shall be unlawful for an insurance agent, broker, or surplus lines ~~licensee~~ broker to deliver in this state any ~~surplus lines nonadmitted~~ insurance policy or contract unless the insurance document is stamped by the association. A ~~licensee's~~ surplus lines broker's failure to comply with the requirements of this subdivision shall not affect the validity of the coverage.

(b) Any insurance agent, ~~broker,~~ or surplus lines ~~licensee~~ broker who delivers in this state any insurance policy or contract that has not been stamped by the association shall be subject to a penalty payable to the commissioner as follows:

- (1) \$50 for delivery of the first unstamped policy;
- (2) \$250 for delivery of a second unstamped policy; and
- (3) \$1,000 per policy for delivery of any additional unstamped policies.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 30. Minnesota Statutes 2010, section 60A.209, subdivision 1, is amended to read:

Subdivision 1. **Authorization; regulation.** A resident of this state may obtain insurance from an ineligible surplus lines insurer in this state through a surplus lines ~~licensee~~ broker. The ~~licensee~~ broker shall first attempt to place the insurance with a licensed insurer, or if that is not possible, with an eligible surplus lines insurer. If coverage is not obtainable from a licensed insurer or an eligible surplus lines insurer, the ~~licensee~~ broker shall certify to the commissioner, on a form prescribed by the commissioner, that these attempts were made. Upon obtaining coverage from an ineligible surplus lines insurer, the ~~licensee~~ broker shall:

(a) Have printed, typed, or stamped in red ink upon the face of the policy in not less than 10-point type the following notice: "THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THIS INSURANCE IS PLACED WITH AN INSURER THAT IS NOT LICENSED BY THE STATE NOR RECOGNIZED BY THE COMMISSIONER OF COMMERCE AS AN ELIGIBLE SURPLUS LINES INSURER. IN CASE OF ANY DISPUTE RELATIVE TO THE TERMS OR CONDITIONS OF THE POLICY OR THE PRACTICES OF THE INSURER, THE COMMISSIONER OF COMMERCE WILL NOT BE ABLE TO ASSIST IN THE DISPUTE. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED." The notice may not be covered or concealed in any manner; and

(b) Collect from the insured appropriate premium taxes, as provided under chapter 297I, and report the transaction to the commissioner of revenue on a form prescribed by the commissioner. If the insured fails to pay the taxes when due, the insured shall be subject to a civil fine of not more than \$3,000, plus accrued interest from the inception of the insurance.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 31. Minnesota Statutes 2010, section 60K.56, subdivision 6, is amended to read:

Subd. 6. **Minimum education requirement.** Each person subject to this section shall complete a minimum of 24 credit hours of courses accredited by the commissioner during each licensing period. No more than one-half of the credit hours per licensing period required under this section may be credited to a person for attending courses either sponsored by, offered by, or affiliated with an insurance company or its agents. For the purposes of this subdivision, a course provided by a bona fide insurance trade association is not considered to be sponsored by, offered by, or affiliated with an insurance company or its agents regardless of the location of the course offering. A licensee must obtain three hours of the credit hours per licensing period from a class or classes in the area of ethics. Courses sponsored by, offered by, or affiliated with an insurance company or agent may restrict its students to agents of the company or agency. Courses not sponsored by an insurance company must be open to all unless an exception listed in section 45.30 applies.

Sec. 32. Minnesota Statutes 2010, section 62A.095, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** (a) ~~No~~ A health plan ~~shall may not~~ be offered, sold, or issued to a resident of this state, or to cover a resident of this state, unless the health plan complies with subdivision 2.

(b) Health plans providing benefits under health care programs administered by the commissioner of human services are not subject to the limits described in subdivision 2 but are subject to the right of subrogation provisions under section 256B.37 and the lien provisions under section 256.015; 256B.042; 256D.03, subdivision 8; or 256L.03, subdivision 6.

For purposes of this section, "health plan" includes coverage that is excluded under section 62A.011, subdivision 3, clauses (4), (6), (7), (8), (9), and (10).

Sec. 33. Minnesota Statutes 2010, section 62A.318, subdivision 17, is amended to read:

Subd. 17. **Types of plans.** Medicare select policies and certificates offered by the issuer must be either a basic plan or an extended basic plan provide the coverages specified in sections 62A.315 to 62A.3165. Before a Medicare select policy or certificate is sold or issued in this state, the applicant must be provided with an explanation of coverage for ~~both a Medicare select basic and a Medicare select extended basic policy or certificate~~ each of the coverages specified in sections 62A.315 to 62A.3165 and must be provided with the opportunity of purchasing either a Medicare select basic or a Medicare select extended basic policy such coverage if offered by the issuer. The basic plan may also include any of the optional benefit riders authorized by section 62A.316. Preventive care provided by Medicare select policies or certificates must be provided as set forth in section 62A.315 or 62A.316, except that the benefits are as defined in chapter 62D.

Sec. 34. Minnesota Statutes 2010, section 62E.14, subdivision 3, is amended to read:

Subd. 3. **Preexisting conditions.** ~~No~~ A person who obtains coverage pursuant to this section ~~shall be~~ is not covered for any preexisting condition during the first six months of coverage under the state plan if the person was diagnosed or treated for that condition during the 90 days immediately preceding the date the application was received by the writing carrier, except as provided under subdivisions 3a, 4, 4a, 4b, 4c, 4d, 4e, 5, 6, and 7 and section 62E.18.

Sec. 35. Minnesota Statutes 2010, section 62E.14, is amended by adding a subdivision to read:

Subd. 4f. **Waiver of preexisting conditions; persons covered by a community-based health care coverage program.** A person may enroll in the comprehensive plan, with a waiver of preexisting condition limitation in subdivision 3, if the following requirements are met:

(1) the person was formerly enrolled in a community-based health care coverage program under section 62Q.80;

(2) the person is a Minnesota resident; and

(3) the person submits an application for coverage that is received by the writing carrier no later than 90 days after coverage under the community-based health care program is terminated. For purposes of this clause, termination of coverage includes exceeding the maximum lifetime or annual benefit on existing coverage, or moving out of an area served by the program.

Sec. 36. Minnesota Statutes 2010, section 62J.81, subdivision 1, is amended to read:

Subdivision 1. **Required disclosure of estimated payment.** (a) A health care provider, as defined in section 62J.03, subdivision 8, or the provider's designee as agreed to by that designee, shall, at the request of a consumer, and at no cost to the consumer or the consumer's employer, provide that consumer with a good faith estimate of the allowable payment the provider has agreed to accept from the consumer's health plan company for the services specified by the consumer, specifying the amount of the allowable payment due from the health plan company. Health plan companies must allow contracted providers, or their designee, to release this information. If a consumer has no applicable public or private coverage, the health care provider must give the consumer, and at no cost to the consumer, a good faith estimate of the average allowable reimbursement the provider accepts as payment from private third-party payers for the services specified by the consumer and the estimated amount the noncovered consumer will be required to pay. Payment information provided by a provider, or by the provider's designee as agreed to by that designee, to a patient pursuant to this subdivision does not constitute a legally binding estimate of the allowable charge for or cost to the consumer of services.

(b) A health plan company, as defined in section 62J.03, subdivision 10, shall, at the request of an enrollee intending to receive specific health care services or the enrollee's designee, provide that enrollee with a good faith estimate of the allowable amount the health plan company has contracted for with a specified provider within the network as total payment for a health care service specified by the enrollee and the portion of the allowable amount due from the enrollee and the enrollee's out-of-pocket costs. An

estimate provided to an enrollee under this paragraph is not a legally binding estimate of the allowable amount or enrollee's out-of-pocket cost.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2011.

Sec. 37. Minnesota Statutes 2010, section 62L.03, subdivision 3, is amended to read:

Subd. 3. **Minimum participation and contribution.** (a) A small employer that has at least 75 percent of its eligible employees who have not waived coverage participating in a health benefit plan and that contributes at least 50 percent toward the cost of coverage of each eligible employee must be guaranteed coverage on a guaranteed issue basis from any health carrier participating in the small employer market. The participation level of eligible employees must be determined at the initial offering of coverage and at the renewal date of coverage. A health carrier must not increase the participation requirements applicable to a small employer at any time after the small employer has been accepted for coverage. For the purposes of this subdivision, waiver of coverage includes only waivers due to: (1) coverage under another group health plan; (2) coverage under Medicare Parts A and B; ~~or (3) coverage under MCHA permitted under section 62E.141; or (4) coverage under medical assistance under chapter 256B or general assistance medical care under chapter 256D.~~

(b) If a small employer does not satisfy the contribution or participation requirements under this subdivision, a health carrier may voluntarily issue or renew individual health plans, or a health benefit plan which must fully comply with this chapter. A health carrier that provides a health benefit plan to a small employer that does not meet the contribution or participation requirements of this subdivision must maintain this information in its files for audit by the commissioner. A health carrier may not offer an individual health plan, purchased through an arrangement between the employer and the health carrier, to any employee unless the health carrier also offers the individual health plan, on a guaranteed issue basis, to all other employees of the same employer. An arrangement permitted under section 62L.12, subdivision 2, paragraph (k), is not an arrangement between the employer and the health carrier for purposes of this paragraph.

(c) Nothing in this section obligates a health carrier to issue coverage to a small employer that currently offers coverage through a health benefit plan from another health carrier, unless the new coverage will replace the existing coverage and not serve as one of two or more health benefit plans offered by the employer. This paragraph does not apply if the small employer will meet the required participation level with respect to the new coverage.

Sec. 38. Minnesota Statutes 2010, section 72A.20, subdivision 24, is amended to read:

Subd. 24. **Cancellations and nonrenewals.** (a) ~~No insurer shall cancel or fail to renew an individual life or individual health policy or an individual nonprofit health service plan subscriber contract, within one year after default in the payment of any premium on an individual life insurance policy, declare the individual life insurance policy to be canceled or nonrenewed for nonpayment of premium unless it mails or delivers to the named insured policy owner, at the address shown on the policy or subscriber contract policy owner's last known address, at least 30 days before lapse, final notice of the cancellation or nonrenewal and the effective date of the cancellation or nonrenewal. For purposes of this subdivision, "individual life insurance policy" includes policies in default on or after the effective date of this section.~~

(b) No insurer on an individual health policy or on an individual nonprofit health service plan corporation subscriber contract shall cancel or fail to renew the policy or contract for nonpayment of premium unless it mails or delivers to the named policy owner or named contract owner, at the policy or subscriber contract owner's last known address, at least 30 days before lapse, final notice of the cancellation or nonrenewal. If the named insured is not the policy or subscriber contract owner of the individual health policy or the individual nonprofit health service plan subscriber contract, the notice required by this subdivision must also be sent to the named insured at the named insured's last known address, if any, and to the owner's last known address.

(c) Proof of mailing of the notice of lapse under paragraph (a) or (b) for failure to pay the premium before the expiration of the grace period is sufficient proof that notice required in this subdivision has been given.

(d) This subdivision does not apply to a life or health insurance policy or contract upon which premiums are paid at a monthly interval or less and that contains any grace period required by statute for the payment of premiums during which time the insurance continues in force.

Sec. 39. Minnesota Statutes 2010, section 72B.041, subdivision 5, is amended to read:

Subd. 5. **Exceptions.** (a) An individual who applies for an adjuster license in this state who is or was licensed in another state for the same lines of authority based on an adjuster examination is not required to complete a prelicensing examination. This exemption is only available if the person is currently licensed in another state or if that state license has expired and the application is received by this state within 90 days of expiration. The applicant must provide certification from the other state that the applicant's license is currently in good standing or was in good standing at the time of expiration or certification from the other state that its producer database records, maintained by the NAIC, its affiliates, or its subsidiaries, indicate that the applicant or the applicant's company is or was licensed in good standing. The certification must be of a license with the same line of authority for which the individual has applied.

(b) A person licensed as an adjuster in another state based on an adjuster examination who establishes legal residency in this state must make application within 90 days to become a resident adjuster licensee pursuant to this section, with the exception that no prelicensing examination is required of this person.

~~(c) A person who has held a license of any given class or in any field or fields within three years prior to the application shall be entitled to a renewal of the license in the same class or in the same fields without taking an examination.~~

~~(d)~~ A person applying for a license as a crop hail adjuster shall not be required to comply with the requirements of subdivision 4.

(d) A person applying for the crop line of authority who has satisfactorily completed the National Crop Insurance Services Crop Adjuster Proficiency Program or the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation Standard Reinsurance Agreement is exempt from the requirements of subdivision 4.

Sec. 40. [72B.055] MULTIPLE PERIL CROP INSURANCE ADJUSTMENTS.

A licensed crop hail adjuster who has satisfactorily completed the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation (FCIC) Standard Reinsurance Agreement may act as an adjuster in this state in regard to Multiple Peril Crop Insurance policies regulated by the FCIC.

Sec. 41. Minnesota Statutes 2010, section 79A.06, subdivision 5, is amended to read:

Subd. 5. **Private employers who have ceased to be self-insured.** (a) Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the entire period the employer was self-insured, whether or not reported during that period, the policy will:

(i) discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy;

(ii) discharge any obligation which the self-insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period; and

(iii) discharge the obligations of the employer to pay any future assessments to the self-insurers' security fund; provided, however, that a member that terminates its self-insurance authority on or after August 1, 2010, shall be liable for an assessment under paragraph (b). The actuarial opinion shall not take into consideration any transfer of the member's liabilities to an insurance policy if the member obtains a replacement policy as described in this subdivision within one year of the date of terminating its self-insurance.

A private employer who has ceased to be a private self-insurer may instead buy an insurance policy described above, except that it covers only a portion of the period of time during which the private employer was self-insured; purchase of such a policy discharges any obligation that the self-insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period for which the policy provides coverage, whether or not reported during that period.

A policy described in this clause may not be issued by an insurer unless it has previously been approved as to the insurer, form, and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: (i) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or (ii) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities

for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the calendar year immediately preceding the calendar year in which the employer's right to self-insure is terminated or withdrawn.

(b) With respect to a self-insurer who terminates its self-insurance authority after April 1, 1998, that member shall obtain and file with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society within 120 days of the date of its termination. If the actuarial opinion is not timely filed, the self-insurers' security fund may, at its discretion, engage the services of an actuary for this purpose. The expense of this actuarial opinion must be assessed against and be the obligation of the self-insurer. The commissioner may issue a certificate of default against the self-insurer for failure to pay this assessment to the self-insurers' security fund as provided by section 79A.04, subdivision 9. The opinion may discount liabilities up to four percent per annum to net present value. Within 60 days after notification of approval of the actuarial opinion by the commissioner, the exiting member shall pay to the security fund an amount determined as follows: a percentage will be determined by dividing the security fund's members' deficit as determined by the most recent audited financial statement of the security fund by the total actuarial liability of all members of the security fund as calculated by the commissioner within 30 days of the exit date of the member. This quotient will then be multiplied by that exiting member's total future liability as contained in the exiting member's actuarial opinion. If the payment is not made within 30 days of the notification, interest on it at the rate prescribed by section 549.09 must be paid by the former member to the security fund until the principal amount is paid in full.

(c) A former member who terminated its self-insurance authority before April 1, 1998, who has paid assessments to the self-insurers' security fund for seven years, and whose annualized assessment is \$15,000 or less, may buy out of its outstanding liabilities to the self-insurers' security fund by an amount calculated as follows: 1.35 multiplied by the indemnity case reserves at the time of the calculation, multiplied by the then current self-insurers' security fund annualized assessment rate.

(d) A former member who terminated its self-insurance authority before April 1, 1998, and who is paying assessments within the first seven years after ceasing to be self-insured under paragraph (a), clause (3), may elect to buy out its outstanding liabilities to the self-insurers' security fund by obtaining and filing with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability for medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment.

(e) A former member who has paid the security fund according to paragraphs (b) to (d) and subsequently receives authority from the commissioner to again self-insure shall be assessed under section 79A.12, subdivision 2, only on indemnity benefits paid on injuries that occurred after the former member received authority to self-insure again; provided that the member furnishes verified data regarding those benefits to the security fund.

(f) In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 5.25, or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 42. Minnesota Statutes 2010, section 79A.24, is amended by adding a subdivision to read:

Subd. 5. Purchase of insurance policy from an authorized insurer. A commercial self-insurance group may purchase an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the entire period or during a portion of the period of time in which the commercial self-insurance group has been in existence. While the insurance policy remains in effect, it discharges the obligation of the commercial self-insurance group to maintain a security deposit for the claims covered under the policy. A policy described in this subdivision may not be issued by an insurer unless it has previously been approved as to the insurer, form, and substance by the commissioner.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 43. Minnesota Statutes 2010, section 79A.24, is amended by adding a subdivision to read:

Subd. 6. Insolvency of a commercial self-insurance group insurer. In the event of the insolvency of the insurer that issued a policy under subdivision 5 to a commercial self-insurance group, eligibility for chapter 60C coverage under the policy is determined by applying the requirements of section 60C.09, subdivision 2, clause (3), to each commercial self-insurance group member separately, rather than to the net worth of the commercial self-insurance group entity or aggregate net worth of all members of the commercial self-insurance group.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 44. Minnesota Statutes 2010, section 82.641, subdivision 1, is amended to read:

Subdivision 1. **Generally License required.** A person shall not act as a real estate closing agent unless licensed as provided in this section. The commissioner shall issue a license as a closing agent to a person who qualifies for the license under the terms of this chapter.

Sec. 45. Minnesota Statutes 2010, section 82B.11, subdivision 6, is amended to read:

Subd. 6. **Temporary practice.** (a) The commissioner shall issue a license for temporary practice as a real estate appraiser under subdivision 3, 4, or 5 to a person certified or licensed by another state if:

(1) the property to be appraised is part of a federally related transaction and the person is licensed to appraise property limited to the same transaction value or complexity provided in subdivision 3, 4, or 5;

(2) the appraiser's business is of a temporary nature; and

(3) the appraiser registers with the commissioner to obtain a temporary license before conducting appraisals within the state.

(b) The term of a temporary practice license is the lesser of:

(1) the time required to complete the assignment; or

(2) ~~six 12 months, with one extension allowed.~~

~~The appraiser may request one extension of no more than six months on a form provided by the commissioner. If more than 12 months are necessary to complete the assignment, a new temporary application and fee is required.~~

Sec. 46. Minnesota Statutes 2010, section 82B.13, is amended by adding a subdivision to read:

Subd. 8. **Appraiser prelicense education.** Notwithstanding section 45.22, a college or university real estate course may be approved retroactively by the commissioner for appraiser prelicense education credit if:

(1) the course was offered by a college or university physically located in Minnesota;

(2) the college or university was an approved education provider at the time the course was offered; and

(3) the commissioner's approval is made to the same extent in terms of courses and hours and with the same time limits as those specified by the Appraiser Qualifications Board.

Sec. 47. Minnesota Statutes 2010, section 82B.14, is amended to read:

82B.14 EXPERIENCE REQUIREMENT.

(a) As a prerequisite for licensing as a licensed real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 2,000 hours of experience in real property appraisal obtained in no fewer than 12 months.

As a prerequisite for licensing as a certified residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 2,500 hours of experience in real property appraisal obtained in no fewer than 24 months.

As a prerequisite for licensing as a certified general real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 3,000 hours of experience in real property appraisal obtained in no fewer than 30 months. At least 50 percent, or 1,500 hours, must be in nonresidential appraisal work.

(b) Each applicant for license under section 82B.11, subdivision 3, 4, or 5, shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.

~~(c) Notwithstanding section 45.22, a college or university real estate course may be approved retroactively by the commissioner for appraiser prelicense education credit if:~~

~~(1) the course was offered by a college or university physically located in Minnesota;~~

~~(2) the college or university was an approved education provider at the time the course was offered;~~

~~(3) the commissioner's approval is made to the same extent in terms of courses and hours and with the same time limits as those specified by the Appraiser Qualifications Board.~~

~~(d)~~ (c) Applicants may not receive credit for experience accumulated while unlicensed, if the experience is based on activities which required a license under this section.

~~(e)~~ (d) Experience for all classifications must be obtained after January 30, 1989, and must be USPAP compliant.

Sec. 48. Minnesota Statutes 2010, section 82C.08, subdivision 2, is amended to read:

Subd. 2. **Amounts.** (a) Each application for initial licensure shall be accompanied by a fee of \$5,000.

(b) Each application for renewal of the license must be received prior to ~~the two-year~~ its expiration ~~period~~ with the renewal fee of \$2,500.

Sec. 49. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall recode Minnesota Statutes, section 60A.19, subdivision 8, as section 60A.198, subdivision 7.

Presented to the governor May 25, 2011

Signed by the governor May 27, 2011, 10:39 a.m.