

judges of the district court of the judicial district wherein such counties are situated.

Approved March 24, 1947.

CHAPTER 129—H. F. No. 711
[Coded as Sections 72.20 to 72.33]

An act relating to unfair methods of competition and unfair and deceptive acts and practices in the business of insurance.

Be it enacted by the Legislature of the State of Minnesota :

[72.20] Section 1. **Purpose.** The purpose of this act is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

[72.21] Sec. 2. **Definitions.** Subdivision 1. Unless the context clearly indicates otherwise, the following terms, when used in this act, shall have the meanings, respectively, ascribed to them in this section.

Subd. 2. "Person" means any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, or any other legal entity, engaged in the business of insurance, including an agent, a broker, or an adjuster.

Subd. 3. "Commissioner" means the commissioner of insurance of this state.

[72.22] Sec. 3. **Unfair methods and unfair or deceptive acts and practices prohibited.** No person shall engage in this state in any trade practice which is defined in this act as or determined pursuant to this act to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

[72.23] Sec. 4. **Methods, acts and practices which are defined herein as unfair or deceptive.** Subdivision 1. **Schedule of unfair methods.** The following are hereby defined as

unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

(1) **Misrepresentations and false advertising of policy contracts.** Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance;

(2) **False information and advertising generally.** Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station, or in any other way, an advertisement, announcement, or statement, containing any assertion, representation, or statement with respect to the business of insurance, or with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading;

(3) **Defamation.** Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance;

(4) **Boycott, coercion and intimidation.** Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation, resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance;

(5) **False financial statements.** Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive;

(6) **False entries.** Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer;

(7) **Stock operations and advisory board contracts.** Issuing or delivering, or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance;

(8) **Discrimination.** Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract;

(9) **Discrimination between individuals of the same class.** Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

(10) **Rebates.** Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, annuity, or accident and health insurance, or agreement as to such contract, other than as plainly expressed in the contract issued thereon, or paying or allowing or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity, any

rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving or selling or purchasing, or offering to give, sell, or purchase, as inducement to such insurance or annuity, or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract;

(11) **Application to certain sections.** Any violation of any provision of any one of Minnesota Statutes 1945, Sections 61.05, 61.06, 61.10, 72.02, 72.05, 72.08, 72.13 as modified by Section 72.15, and 72.17, not set forth in clauses (1) to (10).

Subd. 2. Practices not held to be discrimination or rebates. Nothing in clauses (8) and (10) of subdivision 1, or in Minnesota Statutes 1945, Sections 61.05 and 61.06, shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) In the case of any contract of life insurance or annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(2) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

(3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

[72.24] **Sec. 5. Power of commissioner.** The commissioner shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in this state in order to determine whether that person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by section 3.

[72.25] **Sec. 6. Hearing; witnesses; production of books.**
Subdivision 1. Statement of charges and notice of hearing. Whenever the commissioner has reason to believe that any person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice, defined in section 4, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon that person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 20 days after the date of the service thereof.

Subd. 2. Appearance; intervention. At the time and place fixed for such hearing said person shall have an opportunity to be heard and to show cause why an order should not be made by the commissioner requiring him to cease and desist from the acts, methods, or practices so complained of. Upon good cause shown, the commissioner shall permit any person to intervene, appear and be heard at such hearing by counsel or in person.

Subd. 3. Formal rules of pleading or evidence not required. Nothing contained in this act shall require the observance at any such hearing of formal rules of pleading or evidence.

Subd. 4. Hearing. The commissioner, upon such a hearing, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the inquiry. The commissioner, upon such a hearing, may, and upon the request of any party shall, cause to be made a stenographic record of all the evidence and all the proceedings had at the hearing. If no stenographic record is made and if a judicial review is sought, the commissioner shall prepare a statement of the evidence and proceeding for use on review. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the district court of Ramsey county or of the county where the hearing is being held, on application of the commissioner, may issue an order requiring that person to comply with the subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as a contempt thereof.

Subd. 5. Service. Statements of charges, notices, orders, and other processes of the commissioner under this act may be served by anyone duly authorized by the commissioner, either in the manner provided by law for service of process in civil actions or by registering and mailing a copy thereof to the person affected by the statement, notice, order, or other process at his residence or principal office or place of business. A verified return by the person serving the statement, notice, order, or other process, setting forth the manner of such service, or the return postcard receipt for a copy of the statement, notice, order, or other process, registered and mailed as aforesaid, shall be proof of the service of the same.

[72.26] **Sec. 7. Decision and order thereon.** Subdivision 1. **Determination by commissioner; findings.** If, after a hearing, as provided for in section 6, the commissioner shall determine that the method of competition or the act or practice in question is defined in section 4 and that the person complained of has engaged in that method of competition, act, or practice, in violation of this act, he shall reduce his findings to writing and shall issue and cause to be served upon the person charged with the violation an order requiring him to cease and desist from engaging in that method of competition, act or practice.

Subd. 2. Modification of order. Until the expiration of the time allowed under section 8, subdivision 1, for filing a petition for review, if no such petition has been duly filed within that time, or, if a petition for review has been filed within that time, then until the transcript of the record in the proceeding has been filed in the district court, as hereinafter provided, the commissioner may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

Subd. 3. Commissioner may reopen, modify, or set aside. After the expiration of the time allowed for filing such a petition for review, if no such petition has been duly filed within that time, the commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any order issued by him under this section, whenever in his opinion conditions of fact or of law have so changed as to require such action, or if the public interest shall so require.

[72.27] **Sec. 8. Enforcement.** Subdivision 1. **Court proceedings; review.** Any person required by an order of the

commissioner under section 7 to cease and desist from engaging in any unfair method of competition or any unfair or deceptive act or practice defined in section 4 may obtain a review of that order by filing in the district court of Ramsey county, within 20 days from the date of the service of such order, a written petition praying that the order of the commissioner be set aside. A copy of the petition shall be forthwith served upon the commissioner, and thereupon the commissioner forthwith shall certify and file in that court a transcript of the entire record in the proceeding, including all the evidence taken and the findings and order of the commissioner. Upon the filing of the petition and transcript, said court shall have jurisdiction of the proceeding and of the questions determined therein, shall determine whether the filing of such petition shall operate as a stay of the order of the commissioner, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in the transcript a decree modifying, affirming, or reversing the order of the commissioner, in whole or in part. The findings and order of the commissioner shall be given the same effect as is given to determinations of administrative bodies on review by certiorari.

Subd. 2. Court order. To the extent that the order of the commissioner is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of the order of the commissioner.

Subd. 3. Rehearing. If, before the entry of the decree of the court, either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that said additional evidence is material and that there were reasonable grounds for the failure to adduce it in the proceeding before the commissioner, the court may order said additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact, or make new findings, by reason of the additional evidence so taken and shall file those modified or new findings and his recommendation, if any, for the modification or setting aside of his original order, with the return of the additional evidence. Any such additional evidence, modified or new findings, and recommendation shall be considered by the court in making and entering its final decree, together with the matters submitted in the original transcript.

Subd. 4. Final cease and desist order. A cease and desist

order issued by the commissioner under section 7 shall become final:

(1) Upon the expiration of the time allowed for filing a petition for review if no such petition has been duly filed within such time; except that the commissioner may thereafter modify or set aside his order to the extent provided in section 7, subdivision 3; or

(2) Upon the final decision of the court if the court directs that the order of the commissioner be affirmed or the petition for review dismissed.

[72.28] **Sec. 9. Unfair competition.** Subdivision 1. **Statement of charges; service; hearing.** Whenever the commissioner has reason to believe that any person engaged in the business of insurance is engaged in this state in any method of competition or in any act or practice in the conduct of that business which is not defined in section 4, that said method of competition is unfair or that said act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve upon that person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 20 days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided for in section 6, and the provisions of that section as to service are made applicable to proceedings under this section. Upon good cause shown, the commissioner shall permit any person to intervene, appear and be heard at such hearing by counsel or in person. The commissioner shall, after the hearing, make a report in writing in which he shall state his findings as to the facts and shall serve a copy thereof upon the person upon whom he served his statement of charges.

Subd. 2. Application for injunction. If the report charges a violation of this act and if the method of competition, act, or practice charged by him has not been discontinued, the commissioner may, through the attorney general, at any time after 20 days after the service of the report, cause a petition to be filed in the district court within the district wherein the person against whom the charges were made resides, or that wherein he has his principal place of business, to enjoin and restrain that person from engaging in the method, act, or practice charged. A transcript of the proceedings before the commissioner, including all evidence taken and the report and findings, shall be filed with the petition. Upon the filing

of the petition and transcript the court shall have jurisdiction of the proceedings and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or necessary in its judgment to prevent injury to the public pendente lite.

Subd. 3. Order enjoining and restraining. If the court finds that the method of competition complained of is unfair or that the act or practice complained of is unfair and deceptive, and that the proceeding by the commissioner with respect thereto is to the interests of the public, it shall issue its order enjoining and restraining the continuance of that method of competition, act, or practice. The findings of the commissioner shall be given the same effect as those of a referee appointed pursuant to Minnesota Statutes 1945, Section 546.36.

Subd. 4. Rehearing. If either party shall apply to the court before the entry of its order for leave to adduce additional evidence, and shall show to the satisfaction of the court that said additional evidence is material and that there were reasonable grounds for the failure to adduce it in the proceeding before the commissioner, the court may order said additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact, or make new findings, by reason of the additional evidence so taken, and shall file those modified or new findings with the return of the additional evidence. Any such additional evidence and modified or new findings shall be considered by the court in making and entering its final order, together with the matters submitted in the original transcript.

[72.29] **Sec. 10. Intervention.** If the report of the commissioner does not charge a violation of this act, any intervenor in the proceedings may, within 20 days after the service of the report upon him, cause a petition to be filed in the district court of Ramsey county for a review of that report. Notice of the filing of the intervenor's petition shall be given to the commissioner and to the person upon whom the statement of charges was originally served. The commissioner shall, within 20 days after the service upon him of the notice of filing the petition, file a transcript of the proceedings before him, including all evidence taken and his report and findings, and the person upon whom the statement of charges was originally served shall have 20 days after the service upon him of notice of filing the petition in which to file an answer. The proceedings before the court shall conform

to those provided for by section 9. Upon such a review the court shall have authority to issue appropriate orders and writs in connection therewith, including, if the court finds it is to the interest of the public, orders enjoining and restraining the continuance of any method of competition, act, or practice which it finds, notwithstanding the report of the commissioner, constitutes a violation of this act.

[72.30] **Sec. 11. Appeal to supreme court.** Any decree or order of a district court made and entered under section 8 or order of such a court made under section 9 shall be subject to review by appeal to the supreme court, but any such appeal must be taken within the time prescribed by law for taking appeals from orders of the district courts.

[72.31] **Sec. 12. Violations and penalties.** Any person who violates a cease and desist order of the commissioner under section 7, after it has become final and while such order is in effect, shall forfeit and pay to the state of Minnesota a sum not to exceed \$2,500 for each violation, which may be recovered in a civil action. In determining the amount of the penalty the question of whether the violation was wilful shall be taken into consideration. Nothing herein shall be construed as limiting a court in enforcing its own orders.

[72.32] **Sec. 13. Concurrent remedies.** Subdivision 1. No order of the commissioner, or order or decree of any district court, under this act shall in any way relieve or absolve any person affected by such order or decree from any liability under any other laws of this state.

Subd. 2. The powers vested in the commissioner by this act shall be additional to any other powers to enforce any penalties, fines, or forfeitures authorized by law with respect to the methods, acts, and practices hereby declared to be unfair or deceptive.

[72.33] **Sec. 14. Constitutional evidential privilege denied; immunity; waiver.** If any person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence, or other documents at any hearing on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give such testimony or produce such evidence, he must none the less comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence

pursuant thereto, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation, or proceeding; provided, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him while so testifying, and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation, or proceeding concerning such perjury, nor shall he be exempt from the refusal, revocation, or suspension of any license, permission, or authority conferred, or to be conferred, pursuant to the insurance law of this state. Any such individual may execute, acknowledge and file in the office of the commissioner a statement expressly waiving such immunity or privilege in respect to any transaction, matter, or thing specified in the statement, and thereupon the testimony of that person or any evidence in relation to that transaction, matter, or thing may be received or produced before any judge or justice, court, tribunal, grand jury, or otherwise, and, if so received or produced, that individual shall not be entitled to any immunity or privilege on account of any testimony he may so give or evidence so produced.

Approved March 24, 1947.

CHAPTER 130—H. F. No. 750

[Coded as Section 643.29]

An act relating to rights and privileges granted for good conduct during imprisonment in any county jail, workhouse, or correctional workfarm.

Be it enacted by the Legislature of the State of Minnesota:

[643.29] Section 1. **Diminution of sentence.** Subdivision 1. **“Good time” allowance.** Any person sentenced for a term to any county jail, workhouse, or correctional workfarm may diminish the term of his sentence five days for each month, commencing on the day of his arrival, during which he has not violated any rule or discipline of the place wherein he is incarcerated and, if required to labor, has labored with diligence and fidelity.

Subd. 2. **Enforcement.** Any jailer, workhouse or correctional workfarm superintendent, or person similarly in