

## CHAPTER 483—H. F. No. 2044

[Coded]

*An act relating to the establishment of an industry placement facility to make available basic property insurance against fire and other perils for residential and business properties located in certain areas of the state of Minnesota through the cooperative efforts of the state and the private property insurance industry; to enable insurers to become eligible for federal reinsurance; to provide for an underwriting association of property insurers; to provide for a riot reinsurance reimbursement fund; to provide generally for the operation of such plan; and conferring powers and imposing duties upon the commissioner of insurance and upon certain property insurers.*

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

Section 1. [65A.31] **Minnesota Fair Plan Act; short title.** This act shall be known and may be cited as "The Minnesota FAIR Plan Act".

Sec. 2. [65A.32] **Purposes.** The purposes of this act are:

- (1) To encourage stability in the property insurance market for property located in urban areas of this state;
- (2) To encourage maximum use, in obtaining basic property insurance, as defined in this act, of the normal insurance market provided by the private property insurance industry;
- (3) To encourage the improvement of the condition of properties located in urban areas of this state and to further orderly community development generally;
- (4) To provide for the formulation and administration by an industry placement facility of a plan assuring fair access to insurance requirements (FAIR Plan) in order that no property shall be denied basic property insurance through the normal insurance market provided by the private property insurance industry except after a physical inspection of such property and a fair evaluation of its individual underwriting characteristics;
- (5) To publicize the purposes and procedures of the FAIR Plan to the end that no one may fail to seek its assistance through ignorance thereof;
- (6) To provide for the formulation and administration by the in-

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dustry placement facility of a reinsurance arrangement whereby property insurers shall share equitably the responsibility for insuring insurable property for which basic property insurance cannot be obtained through the normal insurance markets; and

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

Sec. 3. [65A.33] **Definitions.** Subdivision 1. As used in this act, unless the context otherwise requires, the terms defined in this section have the following meaning given to them.

Subd. 2. "Insurer" means any insurance company or other organization licensed to write and engaged in writing property insurance business, including the property insurance components of multi-peril policies, on a direct basis, in this state, except where such insurer is specifically exempted by statute from participation in this program.

Subd. 3. "Basic property insurance" means the coverage against direct loss to real or tangible personal property at a fixed location that is provided in the standard fire policy, extended coverage endorsement, builders risk and such vandalism and malicious mischief insurance and such other classes of insurance as may be added to the program with respect to said property by amendment as hereinafter provided. Basic property insurance does not include automobile, farm or such manufacturing risks as may be excluded by the commissioner.

Subd. 4. "Industry placement facility", hereinafter referred to as the facility, means the organization formed by insurers to assist applicants in urban areas in securing basic property insurance and to administer the FAIR Plan and the joint reinsurance association.

Subd. 5. "Inspection bureau" means the fire insurance rating organization designated by the facility with the approval of the commissioner to make inspections as required under this program and to perform such other duties as may be authorized by the facility.

Subd. 6. "Urban area" includes any municipality or other political subdivision, subject to population or other limitations defined in rules and regulations of the secretary and such additional areas as may be designated by the commissioner.

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Subd. 7. "Premiums written" means gross direct premiums, excluding that portion of premium on risks ceded to the joint reinsurance association, charged during the second preceding calendar year with respect to property in this state on all policies of Basic property insurance and the Basic property insurance premium components of all multi-peril policies, as computed by the facility, less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.

Subd. 8. "Commissioner" means the commissioner of insurance of the state of Minnesota.

Subd. 9. "Secretary" means the secretary of the United States department of housing and urban development.

Subd. 10. "Servicing Insurer" means an insurer designated by the governing committee to issue policies on behalf of the industry placement facility.

Sec. 4. [65A.34] **Fair plan; inspections and reports.** Subdivision 1. Any person having an insurable interest in real or tangible personal property at a fixed location in an urban area shall be entitled upon oral or written application therefor to the facility to a prompt inspection of the property by the inspection bureau without cost.

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

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

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

Subd. 5. Within five business days after the inspection, a copy of the completed inspection report, and any photograph, indicating the pertinent features of building, construction, maintenance, occupancy and surrounding property shall be sent to the facility. Included with the report shall be a rate make-up statement, including any condition charges or aftercharges which the inspection reveals to be nec-

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essary under any substandard rating plan approved by the commissioner. A copy of the inspection report shall be made available to the applicant or his agent upon request. The person requesting the inspection report may designate the insurer or agency to which the inspection report is to be referred.

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

Sec. 5. [65A.35] **Fair plan business; distribution and placement.** Subdivision 1. **Membership.** Each insurer which is authorized to write and is engaged in writing within this state, on a direct basis, basic property insurance or any component thereof contained in a multi-peril policy, including homeowners and commercial multi-peril policies, shall participate in the industry placement facility, as hereinafter described, as a condition of its authority to write such kinds of insurance within this state.

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

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

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

Subd. 3. **Organization.** Within 45 days following the effective date of this act, the industry placement facility shall submit to the commissioner for his review a proposed plan of operation of the facility, consistent with the provisions of this act and the purpose of the facility, which shall provide for the FAIR Plan, the reinsurance arrangement, and the economical and efficient administration of the facility, including, but not limited to, management of the facility, preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities within this state, assessment of members to defray losses and expenses, commission arrangements, reasonable underwriting standards, acceptance

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and cession of reinsurance, and procedures for determining amounts of insurance to be provided.

The plan of operation shall be subject to approval by the commissioner and shall take effect 10 days after having been approved by him. If the commissioner disapproves the proposed plan of operation, the facility shall within 15 days submit for review an appropriately revised plan of operation and, if the facility fails to do so, or if the revised plan so filed is unacceptable, the commissioner shall promulgate a plan of operation.

**Subd. 4. Amendment of plan or operation of facility.** The facility shall, on its own initiative, subject to prior approval by the commissioner, or at the direction of the commissioner, amend the plan of operation.

**Subd. 5. Administration.** (1) The facility shall be administered by a governing committee of 5 members, elected annually by the members of the facility. At least 1 member of the governing committee shall be a domestic stock insurer, and at least 1 member of the governing committee shall be a domestic non-stock insurer. Each member of the facility shall be allotted votes bearing the same ratio to the total number of votes to be cast as its degree of participation in the facility bears to the total participation. Pending the determination of the degree of participation of the members in the facility, each member of the facility shall be allotted votes bearing the same ratio to the total number of votes to be cast as each member's written premium on basic property insurance during calendar year 1968 bears to the statewide total written premium for basic property insurance during such year. The first governing committee shall be elected at a meeting of the members or their authorized representatives.

(2) Any vacancy on the governing committee shall be filled by a vote of the other members of the governing committee.

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

**Subd. 6. Participation.** All members of the facility shall participate in its expenses and in its profits and losses in the proportion that the premiums written as herein defined, but excluding that portion, if any, of premiums which is attributable to the reinsurance arrangement maintained by the facility, by each such member during the second preceding calendar year bear to the aggregate premiums written in this state by all members of the facility. Such participation

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by each member in the facility shall be determined annually by the facility on the basis of such premiums written during the second preceding calendar year as disclosed in the annual statements and other reports filed by the member with the commissioner.

**Sec. 6. [65A.36] Procedure after inspection and submission.** Subdivision 1. The facility shall, within three business days after receipt of an inspection report and application, complete an action report, advising that:

- (a) the risk is acceptable and if aftercharged, the improvements that will be necessary for the removal of each aftercharge, or
- (b) the risk will be acceptable if the improvements noted in the action report are made by the applicant and confirmed by reinspection, or
- (c) the risk is not acceptable for the reasons stated in the action report.

Subd. 2. If the risk is accepted, the policy or binder shall be delivered to the applicant within five business days of such acceptance, conditioned upon payment of the premium therefor.

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

- (a) Physical condition of the property, such as its construction, heating, wiring, evidence of previous fires or general deterioration;
- (b) Its present use or housekeeping such as vacancy, overcrowding, storage of rubbish or flammable materials;
- (c) Other specific characteristics of ownership, condition, occupancy or maintenance which are violative of public policy and result in increased exposure to loss.

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

Subd. 4. In the event that a risk is declined on the basis that it does not meet reasonable underwriting standards, or the coverage will be written on condition that the property be improved, the insurer or facility shall, within five business days, send copies of the

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inspection and action reports to the property owner and the commissioner, and shall advise the property owner of his right to and the procedure for an appeal to the governing committee and to the commissioner.

Subd. 5. If the inspection of the property reveals that there are one or more substandard conditions, aftercharges may be imposed in conformity with the substandard rating plan approved by the commissioner.

Sec. 7. [65A.37] **Standard policy coverage.** All policies issued shall be for basic property insurance on standard policy forms at rates published by the inspection bureau and shall be issued for a term of one year.

Sec. 8. [65A.38] **Cancellation.** Subdivision 1. No insurer shall cancel a policy or binder issued under this program except for:

- (a) Cause which would have been grounds for nonacceptance of the risk under the program had such cause been known to the insurer at the time of acceptance; or
- (b) For non-payment of premium; or
- (c) With the approval of the governing committee.

Subd. 2. At least 15 days notice of cancellation together with a statement of the reason therefor, shall be sent to the insured with a copy sent to the facility.

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

Sec. 9. [65A.39] **Right of appeal.** Any applicant or participating insurer shall have the right of appeal to the governing committee, which shall promptly determine said appeal. A decision of the committee may be appealed to the commissioner within 30 days from the action or decision of the committee, and the commissioner shall promptly determine said appeal. Each denial of insurance shall be accompanied by a statement that the applicant has the right of appeal to the governing committee and the commissioner and setting forth the procedures to be followed for such appeal.

Sec. 10. [65A.40] **Public education.** All insurers agree to undertake a continuing public education program, in cooperation

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with producers and others, to assure that the basic property insurance inspection and placement program receives adequate public attention.

Sec. 11. [65A.41] **Agent's cooperation.** No agent or broker shall be permitted to refuse an application for basic property insurance *within an urban area if he is licensed to write and is actively engaged in writing such insurance.*

Sec. 12. [65A.42] **Privileged communications.** There shall be no liability on the part of, and no cause of action of any nature shall arise against insurers; the inspection bureau, the industry placement facility, or their agents or employees or the commissioner or his authorized representatives, for any statements made in good faith by them in any reports or communications concerning the property to be insured, or at the time of any hearings conducted in connection therewith, or in the findings required by the provisions of this article. The inspection reports and communications of the inspection bureau and the industry placement facility shall not be considered public documents.

Sec. 13. [65A.43] **State back-up.** (a) In order to carry out the purposes of this act and make available to insurers who participate hereunder the reinsurance afforded under part B of Title XII of the National Housing Act against losses to property resulting from riots or civil disorders, the commissioner is authorized to assess each insurance company authorized to do business in the state of Minnesota an amount, in the proportion that the premiums earned by each such company in the state of Minnesota, on lines for which reinsurance is available in the state of Minnesota from the Secretary of Housing and Urban Development, during the preceding calendar year bear to the aggregate premiums earned on those lines in the state of Minnesota by all insurance companies, sufficient to provide a fund to reimburse the Secretary of Housing and Urban Development in the manner set forth in Section 1223 (a) (1) of such part B. This assessment shall be made after the Secretary of Housing and Urban Development has assessed the state of Minnesota in accordance with the provisions of the National Housing Act.

(b) Insurers shall add to the premium rate an amount, to be approved by the commissioner, sufficient to recover, within not more than three years, any amounts assessed under subsection (a) of this section during the preceding calendar year. Such amount shall be a separate charge on all property insurance policies issued in the State of Minnesota in addition to the premium to be paid and shall be reflected as such on all policies of insurance. No commission shall be

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paid thereon to any agent, or broker producing or selling the policy of insurance wherein such amount is added.

Sec. 14. **Effective date.** This act shall be effective retroactive to August 1, 1968.

Approved May 19, 1969.

CHAPTER 484—H. F. No. 2371

*An act relating to the maximum interest rate on certain bonds for improvement; amending Minnesota Statutes 1967, Section 430.12.*

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

Section 1. Minnesota Statutes 1967, Section 430.12, is amended to read:

**430.12 Municipal bonds; interest rate; bonds for improvements.** The city council, for the purpose of realizing the funds for making an improvement and paying damages may, from time to time as may be needed, issue and sell special certificates of indebtedness, or special street or parkway improvement bonds, as they may decide, which shall entitle the holder thereof to all sums realized upon any assessment or, if deemed advisable, a series of two or more certificates or bonds against any one assessment, or against the assessments in two or more different proceedings, the principal and interest being payable at fixed dates out of the funds collected from the assessments, including interest and penalties, and the whole of the fund or funds is hereby pledged for the pro rata payment of the certificates or bonds and the interest thereon, as they severally become due. These certificates or bonds may be made payable to the bearer, with interest coupons attached, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed, as hereinafter provided, and for the time specified in section 430.06. If the city, because of this guaranty, shall redeem any certificate or bond, it shall thereupon be subrogated to the holder's rights. For the purpose of this guaranty, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. These certificates or bonds shall be sold at public sale or by sealed proposals at a meeting of which at least two weeks' published notice shall be given, to the

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