MINNESOTA CODE OF AGENCY RULES

RULES OF THE DEPARTMENT OF COMMERCE

1982 Reprint

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Prepared by

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DEPARTMENT OF COMMERCE

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CHAPTER ONE: BD 1-74

BANKS

BD 1 Loans—Financial Statements. All unsecured loans of $500.00 or more in banks of less than $1,000,000.00 in deposits and unsecured loans of $1,000.00 or more in banks of $1,000,000.00 or more of deposits shall be supported by signed financial statements of the borrowers, endorsers or guarantors. Such current financial information is also required on loans which the commissioner or his examiner considers inadequately secured or those which are secured by a chattel mortgage on farm livestock and/or machinery. Such financial statements shall be renewed at least annually as long as such loans remain unpaid at such amounts.

BD 2 Loans—Loans Considered Delinquent When

(a) Any note, including a real estate mortgage note, in the absence of a properly executed extension, will be considered past due the next day after maturity, unless subsequent interest has been received, in which case the date to which interest has been paid becomes the maturity date. If that date has gone by, the entire note becomes "B" paper, except that after six months it becomes "A" paper.

(b) All notes due on a monthly installment basis are allowed thirty days grace and *neither the principal nor payment* is considered as past due, if any payment is less than thirty days overdue. However, in the event that a payment runs over thirty days delinquent, the whole principal balance becomes past due and subject to "B" Classification, except that if such delinquency runs six months or more, it becomes subject to "A" Classification.

Interest payments will have no effect to change classification described above.

(c) Demand notes are considered current, if no longer than six months has elapsed since the date to which interest was previously paid, i.e., such notes are considered to mature exactly six months from such a date and become past due one day thereafter, unless subsequent interest is received.

BD 3 Loans—Participation Loans

(a) Where a participation in a loan is sold to another bank the agreement may provide that repayment may first be applied to the share sold. Since one of the purposes of such a sale may be to reduce the bank's retention of loans which may exceed its lending limit, the agreement should as a matter of prudent banking practice also provide that, in the event of default or a comparable event defined in the agreement, the participants shall share in all subsequent repayments and collections in proportion to the percentage of participation at the time of the happening of the event.

(b) When a bank or trust company purchases a participation in a loan originated elsewhere, it must obtain copies of all essential papers necessary to determine the credit quality thereof.

BD 4 Loans—Special Feeder Loans

(a) Special Feeder Loans as referred to in Section 48.24 M.S., Subdivision 7, must be made for the exclusive purpose of purchasing feeder live-

stock and each note shall bear the notation "Special Feeder Loan" on its face.

(b) Each such note on file shall be supplied with a paid invoice, bill of sale, or other evidence to show the date of purchase, weight of each feeder animal or the total weight if they are all of the same class and the total cost or value.

(c) Such loans need not be made at the time of actual purchase providing that documents recited under (b) herein are held and made available for inspection.

BD 5 Loans—To Corporations—Corporate Resolutions. All loans to corporations shall be supported by a certified copy of a resolution of the board of directors, board of trustees or other governing bodies of such corporations authorizing the borrowing by the officer or officers signing on behalf of the corporation and such resolution shall indicate the authority of such officer.

BD 6 Loans—To Partnerships. Loans made directly to partnerships, unless all partners sign the note, must be supported by a declaration by the partners showing the composition of the partnership and the proportionate part owned by each partner, and authority of the partner executing the note to bind the partnership therefore.

BD 7 Loans—Second Mortgages. No bank shall extend additional credit to a borrower if such is based in whole or in part on junior liens on real estate security, unless the first mortgage is also held by the bank. (See Section 48.19)

BD 8 Loans—Permanent Endorsements. "Without Recourse" or other endorsements on conditional sales contracts or other instruments must be in permanent form and not subject to alteration or change.

BD 9 Lease Financing. No state bank shall engage in lease financing by directly purchasing or stocking personal property merchandise in anticipation of subsequent lease agreement lending.

BD 10 Real Estate Loans

(a) All real estate mortgages shall be properly recorded and shall show evidence of such recording.

(b) Real Estate mortgages shall be accompanied by abstracts of title or certificates of title which have been continued to show the bank's lien. There shall also be evidence of the usual judgment search and tax search.

(c) All real estate loans of $1,000.00 or over, and smaller loans, if required by the Examiner, shall be accompanied by a title opinion or title insurance to show that the lien currently held is free and clear of all encumbrances, with the exceptions of such loans as may be exempted under provisions of Section 48.19 M.S.

(d) Evidence of adequate insurance coverage with loss payable clause payable to the bank shall be required for mortgages on improved property.

(e) A real estate appraisal committee shall be appointed by the bank's Board of Directors in accordance with the provisions of Section 48.19 M.S. Such a committee shall have at least two members. Real estate appraisal

reports for each mortgage shall be signed by both members of the committee if it consists of two members, and by a majority of the committee if it consists of more than two members. If a professional appraisal is obtained, that fact will be shown in the committee's report and the professional appraisal be made a part of the mortgage file.

BD 11 Bond Investments—Records. During the period in which such investment is carried on a bank's books, it shall be required that:

(a) Original invoices of bond purchases and sales be retained as a part of the records of a bank.

(b) A record be maintained of all securities bought and sold showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price and where pledged or deposited for safekeeping.

(c) All municipal and corporation bonds owned by a bank be supported by full credit information at the time of purchase.

BD 12 Bonds and Securities—Eligible Securities. An obligation of indebtedness which may be purchased for its own account by a state bank, in order to come within the classification of eligible securities within the meaning of this regulation, must be a marketable obligation, i.e., it must be salable under ordinary circumstances with reasonable promptness at a fair value: and with respect to the particular security, there must be present one or more of the following characteristics:

(a) A public distribution of the securities must have been provided for or made in a manner to protect or insure the marketability of the issue; or,

(b) Other existing securities of the obligor must have such a public distribution as to protect or insure the marketability of the issue under consideration; or,

(c) In the case of eligible securities for which a public distribution as set forth in (a) or (b) above cannot be so provided, or so made, and which are issued by established commercial or industrial businesses or enterprises, that can demonstrate the ability to service such securities, the debt evidenced thereby must mature not later than 10 years after the date of issuance of the security and must be of such sound value or so secured as reasonably to assure its payments; and such securities must, by their terms, provide for the amortization of the debt evidenced thereby so that at least 75% of the principal will be extinguished by the maturity date by substantial periodic payments; provided, that no amortization need be required for the period of the first year after the date of issuance of such securities.

BD 13 Securities Under Trust Agreement. Where the security is issued under a trust agreement, the agreement must provide for a trustee independent of the obligor, and such trustee must be a bank or trust company.

BD 14 Investment Qualities. Securities, in order to be eligible for purchase by state banks, must be in the form of bonds, notes, and/or debentures and must be of recognized investment quality. Eligible securities are those which are included among the four highest ratings of the rating services, and non-rated securities of equivalent value, the latter to be determined by the Bond Department of the Banking Division. With regard to the ratings, the following rule shall apply:

(a) A security rated by only one service will be designated as an eligible security if it is rated within the first four grades by that service;

(b) A security rated by two services will be designated as an eligible security if it is rated within the first four grades by both services;

(c) A security rated by three services will be designated as an eligible security if it is rated within the first four grades by two of those services.

BD 15 Banks Not to Participate in Marketing. Although the bank is permitted to purchase eligible securities for its own account for purposes of investment under this regulation, the bank is not permitted otherwise to participate as a principal in the marketing of corporate securities.

BD 16 Holding Bonds on Par or Face Value. The statutory limitation on the amount of the eligible securities of any one obligor or maker which may be held by the bank, is to be determined on the basis of the par or face value of the securities, and not on their book value.

BD 17 Purchase of Non-Eligible Securities Prohibited. The purchase of securities other than eligible securities as defined in Article I is prohibited. Any such purchase will be considered a violation of this section and the Commissioner of Banks, in his discretion, will require that any such security, so purchased, be disposed of within a reasonable length of time. No bank shall be permitted to purchase securities of business or municipal corporations that shall have undergone debt readjustment until twelve months shall have elapsed since the effective date of the readjustment. Such securities, if purchased, must also be disposed of. However, the purchase of railroad equipment trust obligations which are not in default either as to principal or interest, or both, and which are considered to be of eligible quality shall not be prohibited.

BD 18 When Purchase Price May Exceed Par. Purchase of an eligible security at a price exceeding par is prohibited, unless the bank shall:

(a) Charge off the premium when the securities are placed on the books; or,

(b) Provide, for the regular amortization of the premium paid so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or,

(c) Set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under (b) above.

(1) Accrued interest paid on securities must be charged to Interest Received. Bond commissions and all costs of sales or purchases must be charged to Expense.

BD 18A Securities Purchased at Less than Par. Upon the purchase of an eligible security at a price less than par the bank shall place such security on its books at cost and may provide for the regular accretion of the discount, ratably over the period from purchase to maturity of the security.

Filed with Secretary of State December 30, 1966 and Commissioner of Administration January 3, 1967.

BD 19 Purchase of Issuer Option Securities Prohibited. Purchase of securities convertible into stock at the option of the issuer is prohibited.

BD 20 Securities Having Holder Options. Purchase of securities convertible into stock at the option of the holder or with stock purchase warrants attached is prohibited if the price paid for such security is in excess of the investment value of the security itself, considered independently of the stock purchase warrants or conversion feature. If it is apparent that the price paid for an otherwise eligible security fairly reflects the investment value of the security itself and does not include any speculative value based upon the presence of a stock purchase warrant or conversion option, the purchase of such a security is not prohibited.

BD 21 Foreign Borrowers Securities. Purchase of securities of foreign borrowers, whether private, corporate, or governmental, is prohibited with the exception of:

(a) Securities of borrowers, whether private, corporate or governmental, residing in or which are part of the Dominion of Canada, provided, however, that such securities are payable in dollars of the United States.

(b) Bonds of the International Bank for Reconstruction and Development, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed 10 per cent of its capital and of its actual surplus fund; provided further, that this regulation is intended to permit limited purchase of the bonds of the International Bank for Reconstruction and Development only by banks, trust companies and savings banks.

(c) Bonds of the Inter-American Development Bank, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed 10 per cent of its capital and of its actual surplus fund; provided further, that this regulation is intended to permit limited purchase of the bonds of the Inter-American Development Bank only by banks, trust companies and savings banks.

(d) Bonds of the Asian Development Bank, which are payable in dollars of the United States; provided, however, that the total par value of such bonds held by any bank or trust company shall never exceed 10 per cent of its capital and of its actual surplus fund; provided further, that this regulation is intended to permit limited purchase of the bonds of the Asian Development Bank only by banks, trust companies and savings banks.

BD 22 Repurchase Agreement Securities. As to purchase of securities under repurchase agreement subject to the limitations and restrictions set forth in the law and this regulation:

(a) It is permissible for the bank to purchase eligible securities from another under an agreement whereby the bank has an option or a right to require the seller of the securities to repurchase them from the bank at a price stated or at a price subject to determination under the terms of the agreement, but in no case less than the value at the time of repurchase.

(b) It is permissible for the bank to purchase eligible securities from another under an agreement whereby the seller or a third party guarantees the bank against loss on resale of the securities.

(c) It is not permissible for the bank to purchase eligible securities from another under an agreement whereby the seller reserves the right or the option to repurchase said securities itself or through its nominee at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement, have the right or option to compel the seller to repurchase the securities at a price stated or at a price subject to determination under the terms of the agreement.

BD 23 Banks Selling with Repurchase Agreement. As to repurchase agreements accompanying sales of securities:

(a) It is permissible for the bank selling securities to another to agree that the bank shall have an option or right to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement, but in no case in excess of the market value at the time of repurchase.

(b) It is not permissible for the bank selling securities to another to agree that the purchaser shall have the right or the option to require the bank to repurchase said securities at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement have the right or option to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement.

BD 24 Default Bonds. Bonds which are in default, either as to principal or interest, or both, must be charged down to market when such action is ordered by the Commissioner of Banks.

BD 25 Each Sale and Purchase Separate Transaction. Every sale and every purchase will be considered a separate transaction and trades, switches and securities received under debt readjustment, as well as new purchases, must meet the requirements of these regulations.

BD 26 Procedures for Banks Holding Prohibited Securities. In view of the fact that some banks may have bought or sold securities under a form of agreement which is prohibited by this regulation, the bank should either terminate or modify same so as to conform to this regulation, where such action may lawfully be taken. Existing agreements of the prohibited type must not be renewed. The restrictions and limitations of this regulation do not apply to securities acquired through foreclosure on collateral, or acquired in good faith by way of compromise of a doubtful claim or to avert an apprehended loss in connection with a debt previously contracted.

BD 27 Securities Classifications. Until further notice is issued by the Commissioner of Banks, it will be the practice of the Bond Department of the Division of Banking, on the occasion of each examination, to classify all securities held by state banks into four groups, the manner of appraisal of which will be carried on as hereinafter described. The four groups into which the securities will be classified are defined as follows:

Group 1. Securities of this group are marketable obligations of recognized investment quality. This group includes bonds that are rated by the rating

services and which are included among the four highest ratings by these rating services and non-rated bonds of equivalent value, the latter to be determined by the Bond Department of the Division of Banking.

Group II. This group includes bonds of all classes below the four highest ratings and non-rated bonds of equivalent value, the latter to be determined by the Bond Department of the Division of Banking.

Group III. Securities in this class are those which are in default either as to interest or principal, or both, with no regard being paid to any grace period which might be contained in the indenture covering the issue in question.

Group IV. Securities in this group consist of stocks. Such securities as are included in Group IV can only have been acquired legally in payment of, or to protect, a debt previously contracted in a legal manner.

BD 28 Appraisal Principles for Classification. The following methods of appraisal for each of the four groups defined in the foregoing section shall be:

Group I. Securities in this group are to be appraised at the lower of (1) book value or (2) cost adjusted for amortization of premium or accretion of discount as permitted by BD 18 or BD 18A. Market prices are, in general, to be disregarded in so far as the appraised value column is concerned. Any excess of the total book value of eligible securities over their total appraised value is to be included under Classification IV (Loss).

Group II. Securities in this group are to be appraised at their actual market value. If quotations are not available, appraisal shall be made by the Bond Department of the Division of Banking on the basis of such credit information as may be obtainable. Fifty per cent of the net depreciation in this group will be deducted in computing the adjusted capital.

Group III. Securities in this group are to be appraised at the most recent bid price. In the absence of any bid, appraisal shall be made on the basis of such credit information as may be obtainable. Any excess of the total book value over appraised value is to be included under Classification IV (Loss).

Group IV. Common and/or preferred stocks acquired by the bank in payment of, or to protect, a debt, previously contracted, are to be appraised in the manner outlined in Group III.

Dated this 27th day of December, 1966.

Filed with Secretary of State December 30, 1966 and Commissioner of Administration January 3, 1967.

BD 29 Problem Banks. The valuation program herein described shall not be applicable to any institution which, in the opinion of the Commissioner of Banks, is a Problem Bank by reason of:

(a) marked deficiency of capital;

(b) extremely poor asset position generally;

(c) speculatively inclined or otherwise unsound management;

(d) adverse trends;

(e) unduly disproportionate holdings of fourth or lower rated securities;

(f) potentially hazardous concentration in securities of any class diversification or long term securities;

(g) other circumstances which indicate a condition approaching insolvency or which probably will necessitate a rehabilitation of the bank's capital.

In any such instances, all securities are to be appraised at current market value.

BD 30 Cash Items. A daily record shall be maintained of all cash items for anything other than currency or coin being held over until the following day's business and not in the process of being forwarded for collection or being returned to endorsers. No checks shall be held in a bank's cash account to avoid the showing of overdrafts. These daily records shall be retained for a period of at least two years.

BD 31 Banking House. All new investments in banking quarters must be approved by the Commissioner of Banks, subject to statutory requirements, whether or not a fee interest is involved, with the exception that subsequent expenditures for improvements or remodeling need not require such approval, provided that the total such charges to this account will not increase such investments to a point where the total will exceed 40% of a bank's capital and surplus accounts.

BD 32 Banking Premises

(a) In the event that investment exceeds 40% of Capital and Surplus, there shall be made an annual chargeoff of 5% on said investment until it has been reduced to 40%. Thereafter, each bank and trust company shall chargeoff not less than 3% annually until investment has been reduced to 15% of Capital and Surplus, providing no previous program has been agreed upon.

(b) Further chargeoffs may be made at the discretion of each bank or trust company, except that the Commissioner of Banks in his judgment may require additional chargeoffs regardless of amount of investment and respective percentage of Capital and Surplus where such action appears to be warranted.

(c) Investment is real estate to be used for future banking premises must be charged off at the rate of 15% annually, each annual chargeoff to be made on the anniversary of the acquisition of said real estate.

BD 33 Furniture and Fixtures. Purchases capitalized in this account shall be amortized at the minimum rate of 10% annually, with such exceptions as may be made by the Commissioner of Banks. Each such annual charge shall be based on the remaining book value at the end of each year.

BD 34 Leasehold Investments—Approval, Amortization. A leasehold investment which has been approved by the Commissioner of Banks shall be amortized over the period of the lease. If there is an optional clause in such lease for an additional period to be covered thereby, this shall serve to extend the amortization period to such extent. In no event, however, shall the rate of amortization be less than 5% or less than 4% if the total of a bank's investment in banking quarters be more than 40% of its capital and surplus accounts.

BD 35 Contracts for Deed. No bank or trust company may make a loan to be secured by the assignment of a contract for deed for more than $1,000, unless the following requirements are complied with:

(a) Contract and assignment shall be recorded.

(b) There shall be a deed of vendors interest, which shall be recorded, and an abstract or other title document brought up to date to show title in vendor and contract to vendee. There shall also be an attorneys opinion to indicate the absence of prior liens.

(c) Appropriate documents necessary to effect transfer of title and also adequate insurance coverage shall be in evidence.

BD 36 Investments in Automobiles. No state bank or trust company shall make any expenditure for an automobile except for its business operations. Such investments may be capitalized but must be amortized over a three year period, chargeoffs to be made annually starting one year after date of purchase. Title papers shall be in the name of the bank or trust company and adequate insurance shall be carried at all times. Investment may be carried under "Furniture and Fixtures" but a separate memorandum record should be maintained to show necessary details to facilitate supervision.

BD 37 Overdrafts

(a) All checks which are to be honored by a bank shall be charged to the proper account on the same or next business day after receipt.

(b) Checks which are not paid because of causing overdrafts shall be returned to the proper endorser before the close of the next business day after receipt.

(c) Such checks as have been referred to in (b) shall at no time be carried as cash items, beyond midnight of the next business day after receipt, but returned to respective endorsers, excepting in instances where checks are cashed over the counter and there is no opportunity to return them to the endorser.

(d) No overdraft shall be permitted to an officer or employee of a bank with the exception of those which occur in the ordinary course of posting and are reimbursed during the same or the following business day. Overdrafts originating and disposed of in this manner shall not be construed as being in violation of Section 48.08 M.S.

BD 38 Other Real Estate

(a) Any real estate acquired by a bank through foreclosure, conveyed to a bank as satisfaction of a debt previously contracted, or acquired by a bank in any legal manner in satisfaction of debts previously contracted, shall be designated as Other Real Estate from the date upon which the bank actually acquires title.

(b) Other Real Estate cannot be entered upon the books of a bank at an amount greater than the balance of the principal amount of the indebtedness at the time of acquisition.

(c) A chargeoff of 10% of the original amount at which the Other Real Estate was placed on the books shall be made annually at the close of each calendar year. The chargeoff for the first calendar year of ownership shall be an amount to be arrived at by using the same percentage to the full annual chargeoff requirements as the number of months investment has been on the books is to a 12 months period.

(d) Other Real Estate sold on contract for deed must be carried as Other Real Estate until at least 25% of the purchase price has been paid in cash, after which it may be transferred to Loans and Discounts.

(e) It is required that a bank have an abstract of title, continued to show title in the bank on each item of Other Real Estate. Insurance should be obtained where necessary and taxes must be kept current if the Other Real Estate is carried as an asset.

Bank must also have an attorney's opinion or equivalent evidence to show the status of its ownership as to other possible existing liens against each property.

BD 39 Real Estate Taxes—Record to be Kept. Banks shall install and maintain tax records as to properties in which it has a financial interest by the holding of real estate mortgages, contracts for deed, other real estate or otherwise.

BD 40 F.H.A. Premiums. Premiums on F.H.A. mortgages must be charged off on the day the loans are placed on the books.

BD 41 Charged Off Assets

(a) A complete record of charged off assets shall be maintained on which all recoveries shall be shown. This record shall also cite authority of directors with regard to any debts that have been compromised, and include signed compromise agreements, if it is possible to obtain them.

(b) When the Board of Directors has determined that all liquidation efforts have been exhausted, it shall, by appropriate Board resolution, declare such charged off items worthless and that fact shall be noted on the liability ledger sheet or similar record.

(c) When the State Department Examiner finds an accumulation of charged off assets which have been declared worthless, he shall make a list in triplicate showing name, original amount and the amount charged off. He will then seal all such items with one list placed inside the package and one list attached to the outside of the package. The third list will be kept by the Examiner. The sealing of such assets will be for audit purposes only and will in no way preclude the bank from opening the package, if for some reason it becomes necessary to obtain one or more of the items that have been sealed by the Examiner.

BD 42 Records—Posting. All asset and liability records of a bank must be posted on a daily basis.

BD 43 Capital Stock—New Capital—Where Held. Any bank which increases its common capital account by means of the sale of additional common stock need not carry such funds in any other bank but may carry them on its own books among demand liabilities and furnishing appropriate certificate to the Commissioner of Banks as to the total paid in.

BD 44 Debentures—Authority to Approved. Capital debentures are only to be issued with the approval of the commisisoner and on such terms and conditions as he may approve. Debentures shall provide that they shall not

be paid or retired if such payment or retirement would impair the capital of the issuer. For the purpose of considering adequacies of a bank's capital structure as compared to deposit liabilities, such outstanding debentures shall be included in the over-all total of capital accounts.

BD 45 Dividends

(a) The dividend period for the purpose of declaring dividends in accordance with the provisions of Section 48.09 M.S. shall be the period commencing on January 1st and ending as of the close of business December 31st of each calendar year and the net profits for each such period shall be determined from the annual Earnings and Dividends Reports of each bank.

(b) The Division of Banking will supply each bank with forms to be completed with information called for by such forms and returned to the Commissioner of Banks. The forms shall contain a statement by the Commissioner of Banks providing that if certain requirements as set forth therein are met, the bank may pay a cash dividend or dividends without specific approval of the Commissioner of Banks in the year succeeding the dividend period in such amount or amounts as will not reduce the bank's capital, surplus, undivided profits and reserves below such requirements. Except as provided in the preceding sentence, no bank or trust company shall pay a cash dividend to its stockholders until written approval for such dividend has been obtained from the Commissioner of Banks.

(c) The Division of Banking will supply forms to each bank which shall, within 10 days of the date of declaration of any dividend, report to the Commissioner of Banks the date of declaration, the rate and amount of the dividend and the date on which such dividend is payable.

BD 46 Certificate of Deposit of Other Banks

(a) Where a bank incurs a direct liability to another bank by an issuance of a Certificate of Deposit, such must be carried on its books as "Bills Payable."

(b) Where a bank makes a direct investment in a Certificate of Deposit of another bank, such investment shall not exceed its legal lending limit as provided in Section 48.24 M.S. and shall also be carried under "Other Assets."

BD 47 Checks, Drafts, etc.—Records to be Kept. A numerical record shall be installed and maintained to disclose at the time of issuance, all liabilities resulting from the issuing of checks, drafts, check certifications, and similar liabilities.

BD 48 Liabilities—Disclosure of Contingent or Actual Liabilities. Any liability either actual or contingent that may be incurred by a bank in the conduct of its daily operations must be reflected on the bank's financial statements under an appropriate caption on its statement of condition or as a footnote to the statement. In the case of agreements which may be entered into between a Minnesota state bank and automobile manufacturers, such agreements result in a contingent liability and should be shown as a footnote to the daily statement. When a draft (whether demand or time) is received by the bank under this agreement, it becomes an actual liability and is to be entered in the general ledger as "Acceptances Outstanding" with

a corresponding entry under assets with the caption "Customers Liabilities on Acceptances."

BD 49 Savings Passbooks. Savings passbooks must not be retained by a bank for safekeeping except for collateral purposes.

BD 50 Accounting—By Service Corporation. Any bank receiving banking services from another bank or from a service corporation shall provide the following:

(a) A certificate from the bank receiving such services, stating that it will comply with the provisions of Section 48.89 M.S. and giving full assurance that the performance of such bank services by the other bank, or the respective Clerical Service Corporation (name of either to be given), will be subject to Banking Division Regulations in the same manner as if such services were being performed by the bank itself and on its own premises.

(b) A certificate to be furnished by the bank furnishing such clerical services, or the Clerical Service Corporation, agreeing as to performing such services as outlined in Section 48.89 M.S. that its performance thereof will be subject to regulation and examination by the Commissioner of Banks to the same extent as if such services were being performed by the serviced bank itself on its own premises.

BD 51 Safe Deposit Boxes

(a) There must be a rental agreement, signed by the parties who are to have entry, and this agreement must specifically state who is to be authorized to enter.

(b) The record to the agreement must contain the signature of each person who is to have access to the safe deposit box.

(c) The guard key should be restricted to authorized bank personnel and must be kept in such a place as not to be available for customer's use. Bank employees are not to be permitted to enter the vault with the customer's key and to bring the box out to the customer. The customer must control the box at all times when the safe deposit box door is open.

(d) There must be a record signed by each customer at each time of entry by such a customer to his safe deposit box.

(e) A bank shall not retain customers' safe deposit box keys *under any circumstances.*

(f) Keys to safe deposit boxes not under lease must be kept under dual control until such time as such box is rented.

BD 52 Insurance—Approval by Board. The board of directors of each bank shall, at least once a year or at each annual meeting, approve of the amount of fidelity insurance to be carried for the ensuing year.

BD 53 Insurance—Minimum Coverage. Each bank shall procure and keep in force blanket bond coverage, (fidelity insurance described in Minnesota Statutes 48.12) in such minimum amounts per $1,000,000.00 of de-

posits and such additional amounts in the deposit range shown in the following schedule as the commissioner may require:

AMOUNTS OF BLANKET BOND COVERAGE

Banks with Deposits of	*Range of Amounts*
Less than $750,000	$ 25,000 to 50,000
$ 750,000 to 1,500,000	50,000 to 75,000
1,500,000 to 2,000,000	75,000 to 90,000
2,000,000 to 3,000,000	90,000 to 120,000
3,000,000 to 5,000,000	120,000 to 150,000
5,000,000 to 7,500,000	150,000 to 175,000
7,500,000 to 10,000,000	175,000 to 200,000
10,000,000 to 15,000,000	200,000 to 250,000
15,000,000 to 20,000,000	250,000 to 300,000
20,000,000 to 25,000,000	300,000 to 350,000
25,000,000 to 35,000,000	350,000 to 450,000
35,000,000 to 50,000,000	450,000 to 550,000
50,000,000 to 75,000,000	550,000 to 700,000
75,000,000 to 100,000,000	700,000 to 850,000 and up

BD 54 Insurance Commissions—Agreements. If an officer of a bank is acting as an insurance agent and such business is being conducted on the banking premises, there must be an arrangement as to allocating overhead expenses or as to distribution of net earnings and to be included in an appropriate board resolution.

BD 55 Charter. Every bank shall display its bank charter in a prominent place in the lobby. In case of destruction or misplacement of the charter, the Division of Banking will supply a duplicate, upon application, without cost.

BD 56 Rescinded. Chapter 772, Section 4, 1969 session laws amended M.S. 48.25 Rate of Interest on Deposits to authorize the Commissioner of Banks to set the interest rates which may be paid by state chartered banks by directive rather than the previous method of requiring a hearing as provided by M.S. 15.0411 and 15.0422 and a change in the Banking Department Rules and Regulations.

As a result of the above legislation, Minnesota Regulation BD 56, Interest-Time Deposit, has been rescinded by law.

CHAPTER TWO: BD 75-99
BUILDING, SAVINGS AND LOAN INSTITUTIONS

BD 75 Liquidity. An association shall maintain a liquidity ratio based upon its cash and obligations of the United States or this state, or in obligations of political subdivisions of this state, in an amount equal to 7% of its outstanding withdrawable shares.

(a) The term "cash" means cash on hand and cash invested in or on deposit in banks, including the Federal Home Loan Bank, and in other savings and loan associations, which is not pledged as security for indebtedness.

(b) The term "obligations of the United States or this state" means all unpledged evidences of indebtedness assumed by the United States or the State of Minnesota or any of its political subdivisions and all unpledged evidences of indebtedness assumed by any agency or instrumentality of the United States or of the State of Minnesota or any of its political subdivisions, which are by statute fully guaranteed as to principal and interest.

BD 76 Reserve Requirements.

RESCINDED

Filed with Secretary of State
and Commissioner of Administration
December, 1968.

BD 77 Mortgage Loans

(a) A separate individual record shall be kept of each Mortgage Loan. Only such advances or charges as are provided for in the loan contract and/or those specifically provided for in Section 51.43 (Minnesota Statutes—1941) may be added to the loan balance.

(b) The loan record shall show the contractual status as to delinquency or advance payment in dollars and cents at the close of each six-months accounting period. Advances charged to the loan and not repaid will be reflected in the delinquency.

(c) An attorneys opinion will be required with all loans which should show the status of fee title, and whether or not the association has a first valid lien on the property.

BD 78 Other Real Estate

(a) When real estate is acquired through foreclosure or by deed in lieu thereof, it shall be transferred to an account entitled "Other Real Estate" on the date the association actually acquires title.

(b) Other Real Estate cannot be entered on the books of an association at an amount greater than the balance of the principal amount of the loan at the time of acquisition, plus foreclosure costs and delinquent taxes and assessments paid at time of acquisition.

(c) A separate record of each parcel shall be kept which will show among other things the legal description, the balance due on the principal debt, the

cost of foreclosure, delinquent taxes, or other costs of acquisition, subsequent additions, if any, chargeoffs and final disposition.

(d) No cost of repairs or cost of restoration of property may be added to the real estate account except such expenditures as represent permanent improvements.

(e) No additions to book value may be made after the date of sale in cases of foreclosure except as noted under item (d) above. If deed is taken in lieu of foreclosure, real estate must be carried at a figure not exceeding the balance due on the mortgage, plus taxes and assessments paid by the association other than taxes which were current when deed was obtained.

(f) When other real estate is sold on contract for deed, at least 10% of the purchase price must be paid in cash, excluding interest payments, before transfer of Other Real Estate to the Contract for Deed account.

(g) When sales are made at prices in advance of the book value of real estate, the profit involved shall be considered a deferred profit and held in a reserve account and only credited to actual profits after 33⅓% of the purchase price has been paid on the contract, excluding interest payments.

(h) The Other Real Estate on the books must be charged off at the rate of at least 2½% semi-annually. The semi-annual charge-off must be made as of June 30th and December 31st of each year based on the book value, regardless of the time the properties have been owned by the association. The Directors may select the individual properties which they desire to reduce, but the total charge-off must be not less than 2½% of the general ledger real estate account.

BD 79 Shares

(a) Any association issuing shares by Series shall keep an individual record of each certificate issued, adequate to show each payment made thereon, and at the close of each accounting period to show the value to date, the dividend credited, and the delinquent or advance payments in dollars and cents. Red figures will indicate delinquency. Black figures will indicate advance payments.

(b) When a bonus agreement is entered into in connection with any share account the share record shall show, in addition to the customary record and stipulated monthly payment, the amount of "Bonus Dividend" allocated to the account, and for each and every month the amount the account is delinquent or paid in advance.

(c) When any association fails to pay applications for withdrawal of shares within 60 days as required by Section 51.27 (Minnesota Statutes—1941) such association shall immediately establish and maintain a withdrawal list, which shall be a bound register which shall adequately provide the following data: Application number, date filed, original amount of application, unpaid balance, date of notice, date paid, regular payments, emergency payments, and the disposition (give new number and previous number). Applications must be filed numerically as received and/or as they revert to the bottom of the list if not fully satisfied.

BD 80 Interest Earned—Not Collected. When interest on loans is calculated and added to the loan balance, and if all or part of such interest is

not paid, such amount must be set up as "Interest Earned—Not Collected" at time of adjusting the loan balance and can only be transferred to Interest Received after being actually paid by the borrower.

BD 81 Surety Bonds. Each association shall provide a corporate surety bond payable to the association covering all officers and employees having access to cash or other assets of the association in the following amounts:

Total assets less than.....$ 50,000.00	$ 2,000.00 Bond
Total assets of $ 50,000.00 to $200,000.00	$ 3,000.00 Bond
Total assets of $200,000.00 to $300,000.00	$ 5,000.00 Bond
Total assets of $300,000.00 to $500,000.00	$ 7,500.00 Bond
Total assets in excess of.....$500,000.00	$10,000.00 Bond

The requirements set forth above as stated are minimum requirements and the Commissioner of Banks may require additional surety coverage, when necessary. While blanket bonds are not required, it is commonly agreed that they provide superior protection than schedule bonds and the division, therefore, recommends blanket bonds.

BD 82 Charter. The Charter must be framed and hung in a conspicuous place in the main lobby of the association's office.

BD 83 Branch Offices

(a) A Savings, Building and Loan Association may establish a branch office only in the manner prescribed herein. An association which desires to establish a branch office shall amend its articles of incorporation in accordance with Minnesota Statutes 1965, Section 51.10, to authorize the establishment of such office at a specified location. The president and secretary of the association, or its other presiding and recording officers, shall execute a certificate embracing under the corporate seal of the association the resolution adopting said amendment, and shall execute and acknowledge an application, in writing, in the form prescribed by the Banking Division, requesting a certificate authorizing the association to establish a branch office at the location stated in the application. The certificate of amendment and the application shall be filed with the commissioner of banks.

(b) The commissioner shall summarily deny such application if it is determined that any of the following conditions exist:

(1) The location of the proposed branch office is more than 100 miles from home office of the association on the effective date of this regulation;

(2) The association has been transacting business for a period of less than three years;

(3) The commissioner has granted, within one year preceding the filing of the application, another application by the association under this section for a certificate authorizing it to establish a branch office;

(4) The commissioner has denied, other than summarily, within one year preceding the filing of the application, another application by the association under this regulation for a certificate authorizing it to establish a branch office at the same location or within the immediate vicinity thereof; or

(5) The association has filed with the commissioner another application for a certificate authorizing it to establish a branch office with respect to which action by the commissioner is pending.

If the commissioner summarily denies such application, he shall serve the order of summary denial upon the association by mail at its principal place of business.

(c) If the application is not summarily denied, the commissioner shall fix the time, within 60 days after the filing of the application, for a hearing at his office, at which hearing he shall decide whether or not the application shall be granted. Notice of the hearing shall be published in the form prescribed by the commissioner in some newspaper published in the municipality in which the proposed branch office is to be located, and if there is no such newspaper, then at the county seat of the county in which the branch office is proposed to be located. The notice shall be published once, at the expense of the association, not less than 15 days nor more than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear such witnesses as may appear in favor or against the granting of the application.

(d) If upon the hearing it appears to the commissioner that there is a reasonable public demand for the branch office in the location specified by the application, that there is a reasonable probability of its usefulness and success, that it can be established without undue injury to the properly conducted, existing financial institutions in the locality, and that it will be properly and safely managed, the application shall be granted; otherwise it shall be denied.

(e) If the application is denied, the commissioner shall, not later than 60 days after the hearing, make his order in writing to that effect, specifying the ground for denial and forthwith give notice thereof by registered mail to the association, at its principal place of business; and, thereupon, the commissioner shall refuse to issue a certificate of authorization to the association.

(f) If upon a hearing it shall appear to the commissioner that the application should be granted, he shall not later than 60 days after the hearing issue a certificate authorizing the association to establish a branch office at the location stated in the application, subject to such conditions as he may deem necessary. After the issuance of the certificate of authorization by the commissioner, the certificate of amendment shall be filed with the secretary of state, who shall record the same and certify that fact thereon. The certificate of authorization and the certificate of amendment shall be filed for record with the register of deeds of the county of the principal place of business of the association. The certificate of amendment shall be published in a qualified newspaper in the county of the principal place of business of the association for two successive days in a daily, or for two successive weeks in a weekly, newspaper. After recording and publication, the certificate of amendment shall be filed with the commissioner, together with proof of publication.

(g) If a branch office is not opened for business to the public within 12 months following the date of issuance by the commissioner of the certificate authorizing its establishment, unless extended by order of the commissioner for a period not exceeding an additional 12 months, said certificate shall become void.

Filed with Secretary of State and Commissioner of Administration, February 1967.

CHAPTER THREE: BD 100-119

4 MCAR § 1.0100 SMALL LOANS

~~BD 100~~ **Loans Made at Licensed Office.** No application for a loan shall be taken, nor shall any note evidencing the loan obligation be signed, nor shall the proceeds of any loan be paid to a borrower at any other place than that named in the license; except that a renewal note to evidence the unpaid balance of an existing loan and other instruments given to secure said balance, may be taken outside of the office of the licensees, and in loan transactions where there is more than one signer, only one thereof shall be required to sign in the office of the licensee; provided, however, that this regulation shall not apply to loans consummated by mail.

insert new: 4 MCAR § 1.0101 (AR 02357)

~~BD 101~~ **Maximum Loan Applies to Multiple Offices.** Licensees shall not induce or permit any borrower to become obligated, directly or contingently, for a total amount in excess of maximum limit stated in Section 56.13 of Minnesota Statutes on loans obtained from two or more licensed offices operated in Minnesota by the same individual, partnership, affiliated partnership, corporation or affiliated corporation. Licensees shall take reasonable precautions to prevent borrowers from obtaining amounts in excess of the maximum limited in this manner.

Repealed 7 SR 1174 2-14-83

BD 102 Loan Maturity Limitation and Repayment Terms

(a) No licensee shall under any circumstances enter into a contract of loan by which any borrower shall agree to pay installments extending beyond a period of thirty-six and one-half (36½) months from the date of contract.

(b) Every loan contract made on a per cent per month basis shall provide for repayment of principal or principal and charges combined in installments which shall be payable at approximately equal periodic intervals of time and which shall be so arranged that no installment is substantially greater in amount than any preceding installment. (BD 102(a) amended 6-1-67)

insert new: 4 MCAR § 1.0102 (AR 02358)

~~BD 103~~ **Licensees to be Responsible for Acts of Assignees**

(a) Within ten (10) days after the transaction date, licensees shall notify the Commissioner of Banks of the bulk purchase of loan accounts from another licensee and of the bulk sale of loan accounts to another licensee. Notices of such purchase and sale accounts shall state the name and address of the lender from whom accounts are being purchased, to whom accounts are being sold, and shall state the total number of accounts and the total outstanding principal balances involved.

(b) Licensees shall not make a bulk sale or otherwise dispose of loan accounts to any person not holding a license under the Minnesota Small Loan Law unless prior approval is obtained from the Commissioner of Banks. The privilege of collecting the rate of charge allowed by the Small Loan Law cannot be transferred to an unlicensed purchaser and all loans sold, assigned or transferred to a non-licensee shall be endorsed to bear interest at a rate not to exceed six (6) per cent per annum after date of transfer.

4 MCAR § 1.0103

~~BD 104~~ **Management and Control.** Licenses are issued after consideration of the experience, character and general fitness of the officer or manager in charge of the licensed office. Changes of such managing officer which occur must be reported promptly, in writing, to the Commissioner of Banks, in advance of the effective date of change when circumstances permit, but in any event within 10 days of such transfer.

insert new: 4 MCAR § 1.0104 (AR02845T)

~~BD 105~~ **Transferred Accounts.** The original ledger card or record of payments on any transferred small loan must be retained in the transferring small loan office for at least two years from the date of transfer.

4 MCAR § 1.0105

~~BD 106~~ **Method of Counting Days.** For the purpose of computing elapsed periods of time, a month shall be considered a calendar month and, where a fraction of a month is involved, a day shall be considered one-thirtieth of a month. The method employed must count only 30 days for any full calendar month elapsed but count the actual days in any fractional month period. A full calendar month is the period from a given date in one month to the same numbered date in the following month and in case there is no same numbered date in the following month, to the last day in the following month. In any period extending beyond one or more full months, the one or more full months fall at the start of the period and the fractional month at the end.

insert new: 4 MCAR § 1.0106 (AR02845T)

~~BD 107~~ **Refund of Unearned Interest.** The refund of unearned precomputed charges shall be computed as of the next installment date on any small loan prepaid in full by cash, a new loan, renewal, refinancing or otherwise if prepaid when:

(a) 15 days or more have elapsed after a scheduled installment due date in any month where the actual number of days in the interval between the scheduled installment dates totals 28 or 29 days.

(b) 16 days or more have elapsed after a scheduled installment due date in any month where the actual number of days in the interval between the scheduled installment dates totals 30 or 31 days.

When fewer days than described in (a) or (b) have elapsed the refund shall be computed as of the prior due date.

Repealed 7 SR 1174 2-14-83

~~BD 108~~ **Refund of Unearned Insurance Premiums.** The refund of unearned life, and accident and health insurance premiums shall be made in the same manner as the refund of unearned interest charges.

4 MCAR § 1.0107

~~BD 109~~ **Separability of Rules.** If any provision of these Rules or the application thereof to any party or circumstances is held invalid, the remainder of the Rules and the application of such provisions to other parties or circumstances shall not be affected thereby.

BD 110 to 119 Reserved for Future Use.

CHAPTER FOUR: BD 120-135

INDUSTRIAL LOAN AND THRIFT COMPANIES

insert new: 4 MCAR § 1.0120 (CAR028457)

~~BD 120~~ **Books and Records.** Subd.1. In order to facilitate a satisfactory examination by the Commissioner of Banks or his representatives, each industrial loan and thrift company shall maintain:

(a) Such books and records as are deemed necessary, and,

(b) A monthly trial balance in the form prescribed as of the close of the accounting period to be in the branch office within 15 days. A sample form will be provided by the Banking Division upon request.

Subd. 2. The principal office of each industrial loan and thrift corporation in this state shall maintain the following additional books and records:

(a) A consolidated monthly trial balance in the form prescribed as of the close of the accounting period to be in the principal office within 15 days. A sample form will be provided by the Banking Division upon request.

(b) Copies of the corporate stock register.

(c) Copies of all corporate insurance policies and surety bonds (as required by BD 122).

(d) Copies of the minutes of all the annual, regular and special meetings of the Board of Directors and Stockholders.

Subd. 3. Unless otherwise provided, all legal instruments, supporting documents, and ledger cards or record of payments shall be maintained in the office for at least two years after recording the final entry thereon.

4 MCAR § 1.0121

~~BD 121 Dividends.~~ No industrial loan and thrift company, which sells Certificates of Indebtedness to the public for investment purposes, shall pay a cash dividend to its stockholders until written approval for such payment has been obtained from the Commissioner of Banks. Blanks requesting information that will be required for the approval of dividends will be supplied by the Division upon request.

4 MCAR § 1.0122

~~BD 122~~ **Surety Bonds and Insurance.** Each industrial loan and thrift company shall provide adequate corporate surety bond coverage on all its officers and employees having access to cash or other assets of the company. They shall also provide other types of insurance that may be deemed necessary.

4 MCAR § 1.0123

~~BD 123~~ **Management and Control.** Certificates of Authorization are granted after consideration of the experience, character, and general fitness of the officer or manager in charge of the licensed office. Changes of such managing officer which occur must be reported promptly, in writing, to the Commissioner of Banks, in advance of the effective date of change when circumstances permit, but in any event within 10 days of such transfer.

Repealed 7 SR 1174 2148

BD 124 Split or Divided Loans. Two or more loans made to the same individual, husband and wife, partnership, or corporation, on the same day or as a part of the same transaction shall be considered as one for purposes of determining maximum investigation and handling charges.

Repealed 7 SR 1174 2-14-83

BD 125 First Payment Date. The first payment date on any Certificate of Indebtedness pledged as collateral security for a loan may be scheduled for any period provided:

(a) Such date is not less than 15 days nor more than one month and 15 days from the inception of the loan, and,

(b) That no additional interest charges may be assessed, imposed or collected for such extended period. Additionally, no interest adjustment is required for such shortening of the first payment period.

Repealed 7 SR 1174 2-14-83

BD 126 Investigation Charges. When the scheduled term of the loan is less than twelve months, such term shall be substituted in lieu of the twelve month base for purposes of determining the amount of the investigation charge earned on a loan which is renewed within the term of the loan. (On a nine month loan, for example, one-ninth of the investigation charge shall be considered earned for each full month or fraction thereof from the inception of the loan to the date of renewal).

4 MCAR § 1.0124

BD 127 Separability of Rules. If any provision of these Rules or the application thereof to any party or circumstances is held invalid, the remainder of the Rules and the application of such provisions to other parties or circumstances shall not be affected thereby.

BD 128-134 Reserved for Future Use.

Amended and filed with the Secretary of State and Commissioner of Administration January 20, 1972.

CHAPTER FIVE: BD 135-160

CREDIT UNIONS

BD 135 Books, Records and Reports

(a) A credit union shall keep a complete set of books and records and shall keep the Commissioner of Banks advised at all times of the address at which they are maintained. Any credit unit receiving record keeping services from another credit union or from a service corporation shall provide the following:

(1) A certificate from the credit union receiving such services, stating that it will comply with the provisions of Section 52.06 of Minnesota Statutes and giving full assurance that the performance of such record keeping services by the other credit union, or the respective Clerical Service Corporation (name of either to be given), will be subject to Banking Division Regulations in the same manner as if such services were being performed by the credit union itself and on its own premises.

(2) A certificate to be furnished by the credit union furnishing such clerical services, or the Clerical Service Corporation, agreeing as to performing such services as outlined in Section 52.06 of Minnesota Statutes that its performance thereof will be subject to regulation and examination by the Commissioner of Banks to the same extent as if such services were being performed by the serviced credit union itself on its own premises.

(b) The Supervisory Committee shall file a report in duplicate on forms furnished by the Commissioner of Banks, within 30 days after the date of each semiannual audit.

(c) All cash receipts and assets of the credit union must be kept intact and not commingled with any other funds under any circumstances.

(d) A credit union shall supply its members with passbooks, showing the current position of shares, deposits and loans. When a statement of the account plan is used, the member's official permanent record for transactions shall be the statement of account which will itemize all transactions and which must be issued to each member at least quarterly, unless otherwise approved by the Commissioner of Banks. No credit union shall hold any passbooks or statements of members.

(e) Individual ledger cards. A number shall be assigned to each member in sequence upon his election to membership, and no such number shall ever be reissued to any other member. Each member's assigned number shall appear on his passbook and individual ledger card for shares, deposits and loans. All ledger cards must be kept so that the year can be readily ascertained.

Filed with the Secretary of State April 23, 1974 and with the Commissioner of Administration April 23, 1974.

BD 136 Real Estate - Purchase of. No credit union shall purchase real estate unless approved by the commissioner of banks.

BD 137 Other Real Estate

(a) Whenever real estate is acquired by a credit union through foreclosure or by deed in lieu thereof, it shall be transferred from loans to an account titled "Other Real Estate" on the date upon which the credit union actually acquired title.

(b) No costs of repairs or costs of restoration of such property may be added to the real estate account, except such expenditures as represent permanent improvements. Taxes delinquent when title is acquired may, when paid by the credit union, be added to the book value of the property.

(c) No additions to book value may be made after the date of sale in cases of foreclosure except as noted in the preceding paragraph. If a deed is taken in lieu of foreclosure, real estate must be carried at a figure not exceeding the balance due on the mortgage, plus delinquent taxes and assessments paid by the credit union at the time of acquiring title thereto.

(d) When sales are made on a contract for deed at a price exceeding the book value of the real estate, the profit involved shall be considered a deferred profit and held in a reserve account and only credited to actual profit after one-third of the purchase price has been paid on the contract, excluding interest payments.

(e) Other Real Estate must be charged off annually at the rate of at least 10% of the original amount and the first charge off must be made not later than 12 months after the date of acquisition.

BD 138 Loans to Organizations. Loans may be made to organizations and such may become members, providing they consist for the most part of the same general group as the credit union membership and a substantial number of such credit union members derive the profits and benefits accruing therefrom.

BD 139 Loans

(a) All cancelled notes and mortgages and all pledges must be returned to the borrower.

(b) Real estate mortgages.

(1) A credit union may take only the following liens upon real estate as security for loans:

(aa) A first lien; or

(bb) A junior lien if:

(i) the credit union owns all prior liens on the real estate and there are no other intervening liens; or

(ii) the lien is taken to secure debts previously contracted; or

(iii) the loan is guaranteed or insured in whole or in part by the United States or any department, bureau, board, commission, or establishment of the United States, including any corporation wholly owned indirectly or directly by the United States, and shall not be subject to the restructions or limitations imposed by BD 139 upon loans secured by real estate; or

(cc) A second lien not within the scope of (bb) above if:

(i) the amount of the loan plus the remaining balance on the loan secured by the first lien does not exceed 80% of the current appraised value of the mortgaged property, and

(ii) the credit union relies primarily on other security as collateral for the loan or looks for repayment by relying primarily on the borrower's general credit standing and forecast of income supported by the borrower's signed financial statement, and

(iii) the lien secures a non-automobile loan, and

(iv) except for home improvement loans, the lien is taken as security for a loan in a principal amount of $3,000 or more.

(2) Appraisal report. The credit committee with the approval of the board of directors may accept the appraisal report of any other person or persons qualified to appraise real estate which shows the estimated value of the land and building separately, and any other required information, but the credit committee must approve all such loans.

(3) Mortgage note. Any standard Minnesota form of real estate mortgage note is acceptable.

(4) Mortgage deed. Any standard Minnesota form is acceptable.

(5) Title. In the case of abstract title property, the loan file of all mortgagees should contain the recorded mortgage and note, and in the case of the first mortgagee the abstract continued to and containing evidence of the usual searches dated at least one day after date of the recording of the mortgage.

In the case of torrens title property the loan file of all mortgagees should contain a copy of the mortgage and note and either the owner's duplicate certificate of title or the mortgagee's duplicate with memorial of mortgage thereon, and in the case of the first mortgagee a registered property certificate (sometimes called certificate of condition of title) continued to at least one day after date of recording of the mortgage.

(6) Attorney's opinion. An attorney's opinion, as to the fee title and stating that the credit union mortgage is a valid lien on the property as specified in BD 139 (b) (1) or a Title Insurance Policy, is required.

(7) Evidence of adequate insurance to cover mortgage with loss payable clause payable to credit union shall be required for mortgages.

(c) Personal Loans.

(1) A record or index of co-signers' or guarantors' aggregage direct and indirect liability to the credit union shall be maintained, and financial statements are to be taken on the original loan or on any substantial increases.

(2) All applications on loans paid or refinanced, must be retained for a minimum period of 5 years as a part of the credit union's credit file containing the current loan note and supporting papers.

(3) All unsecured loans of $1,500 or more in a credit union of less than $1,000,000 in assets and unsecured loans of $3,000 or more in credit unions of $1,000,000 or more in assets, shall be supported by signed financial statements of the borrower, co-makers and/or guarantors. Such current financial information is also required on loans which the Commissioner or his examiners considers inadequately secured. The loan application shall show the estimated value of collateral offered at the time a loan is granted.

(4) If a board member or member of a committee has a loan delinquent or criticized, the Commissioner of Banks may require that such director or committee member be removed from his position.

BD 140 Field of Membership – Restrictions. With the exception of residence within a well-defined neighborhood, community, or rural district, the field of membership shall consist of regularly qualified members who can be reasonably held to have a common bond of occupation or association, together with their spouses and blood or adoptive relatives and excluding the blood relatives of the spouses in each instance.

BD 141 Board of Directors

(a) Notice of any change in officers, directors or committee members, between annual meetings, must be forwarded to the Commissioner of Banks within 10 days after such change.

(b) When the examiner's report is received by a credit union, it must be reviewed by the Board of Directors at a regular or special meeting within thirty days after its receipt. The letter from this department which accompanies the report must also be read at the directors' meeting. The directors' reply must be on the form attached to the face of the examiner's report. The minutes must show the fact that the directors reviewed the report and also any action taken.

BD 142 Dividends and Interest. Dividends on shares and interest on deposits amounting to less than one dollar in any dividend or interest period may by action of the Board of Directors be deferred, accumulated, and paid at the time of withdrawal of the account unless immediate posting of the dividend or accumulated dividends would complete an additional share. Such deferrals shall be maintained in a reserve for dividends account.

BD 143 General Rules

(a) No credit union shall make a charge or permit a charge to be made for obtaining a loan, other than the charges permitted by the Credit Union Law.

(b) Whenever it becomes necessary to remove any asset from the files for any reason whatsoever an authentic receipt attached to a copy of such asset must replace it.

(c) Minute book. The minutes of any meeting must be written up as soon as practicable and signed by the secretary and the presiding officer at the next meeting as soon as approved. They should be kept in a book and be available with the credit union records for inspection by the Commissioner of Banks or his representatives at all times without previous notice.

(d) Charged off assets. A record of all assets charged off, either to the statutory reserve fund or undivided earnings, must be maintained. This record should be kept current and available to the examiners at each examination.

(e) Purchases capitalized to the furniture and fixtures account shall be amortized at the minimum rate of 10% annually, with such exceptions as may be made by the Commissioner of Banks. Each such annual charge shall be based on the remaining book value at the end of each year.

(f) The Commissioner of Banks may require credit unions to prepare and present to the board of directors monthly balance sheets and income and expense statements which clearly indicate the following items of information: 1. the number and dollar amount of delinquent personal and real estate loans according to the most recent delinquent loan schedules (if the schedules are not current their dates shall be indicated); 2. income from personal loans; income from real estate loans, if any; income from investments, if any; other income, if any; 3. expenses shall be itemized in reasonable detail monthly and the percentage of income consumed by each classification of expense shall be shown quarterly; 4. the year-to-date amount to be transferred to reserves shall be indicated.

At each monthly board meeting the directors shall also be provided with the following information: 1. the amount of any reserve requirement deficiency; 2. the amount needed to pay the credit union's anticipated dividend rate and whether the credit union has adequate year-to-date net earnings to do so.

BD 144 *Surety Bonds*

(a) Credit unions operating under Minnesota Law shall be required to be protected by a blanket bond with the following provisions: all officers, committee members, employees, bank messengers, and attorneys representing the

credit union shall be covered by the bond. The credit union shall be protected against losses from a lack of honesty or a lack of faithful performance, burglary or robbery, forgery or alteration, and misplacement or mysterious and unexplainable disappearance. The schedule of basic coverage required shall be as follows:

Credit Union Assets	Minimum Amount Of Bond	Credit Union Assets	Minimum Amount Of Bond
0 - 5,000	1,000	250,001 - 275,000	72,500
5,001 - 10,000	5,000	275,001 - 300,000	76,500
10,001 - 15,000	10,000		
15,001 - 20,000	15,000	300,001 - 325,000	80,000
20,001 - 30,000	20,000	325,001 - 350,000	84,000
		350,001 - 375,000	87,500
30,001 - 40,000	25,000	375,001 - 400,000	91,500
40,001 - 50,000	33,000	400,001 - 450,000	95,000
50,001 - 60,000	35,000		
60,001 - 70,000	37,000	450,001 - 500,000	97,500
70,001 - 80,000	39,000	500,001 - 550,000	100,000
		550,001 - 600,000	102,500
80,001 - 90,000	41,000	600,001 - 650,000	105,000
90,001 - 100,000	43,000	650,001 - 700,000	107,500
100,001 - 125,000	45,000		
125,001 - 150,000	50,000	700,001 - 750,000	110,000
150,001 - 175,000	55,000	750,001 - 800,000	112,500
		800,001 - 850,000	115,000
175,001 - 200,000	60,000	850,001 - 900,000	117,500
200,001 - 225,000	65,000	900,001 - 1,000,000	120,000
225,001 - 250,000	69,000		

Credit unions with assets of $1,000,000 or less shall obtain an endorsement to their bond providing for coverage up to one million dollars. Larger bonds may be required according to the size of the credit union.

(b) Upon learning of a possible bond claim the insured shall give to the bonding company or any of its authorized agents written notice by registered mail of any such claim under the bond as soon as possible, and the insured shall send to the Commissioner of Banks, within 10 days, a copy of its notification letter to the bonding company.

BD 145 Delinquent Loans

(a) Credit unions shall be required to send an annual schedule of delinquent personal loans to the Commissioner of Banks. This schedule shall list delinquent personal loans according to the following categories: 3 to 6 months delinquent; 6 to 12 months delinquent; 12 or more months delinquent. This schedule shall also show for each delinquent personal loan, the date of loan, date of last principal payment and the original amount of loan. The Commissioner of Banks may require this report more frequently than annually if a need to do so is indicated. The board of directors of the credit union shall study this report carefully.

(b) The reserve requirements shall consist of the following percentages of the total unpaid balances of the delinquent personal loans:

3 to 6 months.....10%
6 to 12 months.....25%
12 months or more.....80%

This calculation shall be based on the most recent report required by the Commissioner of Banks or a more recent report prepared at the initiative of the credit union. If the amount in the statutory reserve is inadequate to meet the reserve needs, the Commissioner of Banks may require the credit union to maintain the amount of the deficiency in a contingency reserve. No net earnings or undivided earnings may be used to pay dividends until the reserve needs have been met in full without the permission of the Commissioner of Banks. At any subsequent time that any or all of the amount in the contingency reserve is not needed to meet the reserve needs, the un-needed amount may be transferred from the contingency reserve into undivided earnings.

(c) Delinquency on real estate loans shall be calculated on a contractual basis.

BD 146 Investments — Records. During the period in which investments are carried on a credit union's books, it shall be required that:

(a) Original invoices of bond purchases and sales be retained as a part of the records of a credit union.

(b) A record be maintained of all securities bought and sold showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price and where deposited for safekeeping.

(c) Any investment, other than U. S. Governments direct and/or guaranteed, shall be supported by full credit information at the time of purchase. (Dealer's circular or prospectus.)

(d) Purchase of a security at a price exceeding par is prohibited, unless the credit union shall:

(1) Charge off the premium when the securities are placed on the books; or

(2) Provide, for the regular amortization of the premium paid so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or

(3) Set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under (2) above.

(4) Accrued interest paid on securities must be charged to Interest Received. Bond commissions and all costs of sales or purchase must be charged to Expense.

(c) Upon the purchase of a security at a price less than par the credit union shall place such security on its books at cost and may provide for the regular accretion of the discount, ratably over the period from purchase to maturity of the security.

BD 147 Relatives as Employees of the Credit Union

(a) A relative of a board or committee member or full-time employee may not be employed by a credit union unless such employment is approved by five-sevenths of the entire board as a result of a secret ballot. A relative of a board or committee member or fulltime employee who is already employed by the credit union shall be subject to the foregoing provision and his employment shall be reconsidered at the request of any two directors.

BD 148 Insurance

(a) A credit union may establish, operate, or maintain an insurance agency as a separate corporation or agency within its physical premises.

(b) A credit union may be the policyholder of either a group insurance plan or a sub-group under a master policy plan.

(c) Premiums may be remitted by the credit union to an insurer or the holder of a master policy on behalf of a credit union member provided that said credit union has obtained written authorization from such member.

(d) The credit union may accept reimbursement from the insurer for the actual cost of ministerial tasks performed pertaining to insurance. This reimbursement shall not exceed 10% of gross premiums. The credit union may not accept a commission on the insurance sale.

(e) Where a credit union is engaged in the facilitation of its members' voluntary purchase of types of insurance incidental to the borrowing of money for provident and productive purposes, including but not limited to fire, theft, automobile, life and temporary disability insurance, a member shall be given the elective of purchasing any required insurance from the vendor of his choice, and the members' file shall contain his signed written elective.

(f) If the insurance is cancelled, the unearned premium shall be paid to the member or credited to the member's share or deposit or loan account as the case may be.

Filed with the Secretary of State April 23, 1974 and the Commissioner of Administration April 23, 1974.

BD 149 C.P.A. Audit in Lieu of Examination

(a) Any C.P.A. audits which the Commissioner of Banks may wish to accept in lieu of examinations must include a balance sheet examination and the classifying of assets in a manner consistent with state credit union examinations. This C.P.A. report of examination will be submitted on the same forms and in the same manner that state credit union examiners employ.

(b) Any credit union may request prior approval by the Commissioner to submit a C.P.A. audit in lieu of examination. Where such approval is given, the Commissioner shall retain the authority to reject the C.P.A. audit which is submitted if it is inadequate by the standards of the Banking Division.

BD 150-160 Reserved for Future Use

Filed with the Secretary of State April 23, 1974 and the Commissioner of Administration April 23, 1974.

CHAPTER SIX: BD 200-225
DEBT PRORATING AGENCIES

BD 200 SURETY BOND. The corporate surety bond shall be for an amount not less than $5,000 but, at the discretion of the Commissioner of Banks, may be at least equal to the largest amount which may or has accrued in the Trust Account during the year. Securities in excess of a minimum of $5,000 Surety Bond, which are acceptable to the Commissioner, may be forwarded for deposit with the State Treasurer as additional surety, provided prior approval has been obtained.

BD 201 SURETY BOND FORM AND EXPIRATION. The surety bond shall be executed on forms provided by the Commissioner and shall expire simultaneously with the license.

BD 202 REPORT TO THE COMMISSIONER. Each debt prorating company shall annually, on or before the 15th day of February, file a report as of December 31 with the Commissioner of Banks containing such information as the Commissioner may require. Such reports shall be made on the form prescribed by the Commissioner.

BD 203 CONTRACT REQUIREMENTS

(a) Each contract entered into by the licensee and the debtor must be in writing and signed by both parties. The licensee shall provide the debtor with a copy of the signed contract.

(b) The contract shall set forth the following items which shall be made a part thereof:

(1) The names and addresses of the licensee and the debtor,

(2) All debts which are to be managed by the licensee, including the name of the creditor and the amount of the debt,

(3) In clear and precise terms, payments and time of payments reasonably within the ability of the debtor to pay,

(4) The dollar charges agreed upon for the services of the lender as provided under Section 332.23.

(5) The terms upon which the debtor may cancel the contract as set out in Section 332.23.

BD 204 OFFICE RECORDS AND PROCEDURES. Office records shall be maintained in each individual office and shall include the following:

(a) A ledger card for each account which must contain at least the following information:

(1) Name, address and account number of the debtor,

(2) Date debtor entered into the plan, schedule of payments and amount of the initial indebtedness,

(3) Name, address, account number and initial amount due each creditor,

(4) Date, name, address, account number and initial amount due each creditor under a separate and additional contract,

(5) Amount, date and receipt number of each payment received from the debtor,

(6) Source and nature of unusual payments received from or on behalf of the debtor,

(7) Date, amount, check number and current balance due each creditor.

(8) Balance in escrow after payment.

(b) A receipt for all payments received from a debtor or other person on behalf of the debtor. The receipt shall be:

(1) Prenumbered by the printer,

(2) Issued in duplicate; one copy to the payor and one copy filed in consecutive, numerical order in the licensed office,

(3) Given or sent immediately to the payor, or maintained in the debtor's file and attached to the next quarterly statement sent to the debtor.

In addition, each office shall comply with the following:

(c) Trust Fund

(1) All payments received from a debtor or on behalf of a debtor shall be deposited into a separate trust account daily in an approved bank and such funds shall not be commingled with the licensee's own property or funds.

(2) The Trust Fund Account must be reconciled monthly with the cancelled checks together with voided or unused checks filed in numerical order after the monthly statement has been reconciled. All Trust Fund checks must be prenumbered by the printer.

(3) The licensee's own operating bank account must be reconciled monthly and proper records maintained, but not commingled with the Trust Account record.

(d) A daily receipts and disbursements journal shall be maintained showing receipt of all debtor payments as well as the disbursement of these payments.

(e) Accounting records must be maintained which show daily debtor payments received, disbursement to creditors, fees collected and money held in escrow.

(f) A scrapbook containing copies of all advertising promulgated by or for each office including radio and television scripts.

(g) A statement, as required under Section 332.22, shall be delivered to each debtor:

(1) For the quarters ending March 31st, June 30th, September 30th, and December 31st, within 20 days following the end of the quarter.

(2) Upon cancellation or termination of the contract.

(3) Or upon receipt of a written request from or on behalf of a debtor and a duplicate copy of any such statement maintained in the debtor's file.

(h) Documents or records shall be maintained for each debtor indicating:

(1) Steps taken to obtain consent of all creditors.

(2) Notice to the debtor of the right to cancel the contract for failure to obtain the consent of all creditors.

(3) Notice to all creditors of the debtor's cancellation of the contract.

(i) Any variation of these standard procedures or records which prevent the licensee from maintaining the required records must be first approved, in writing, by the Commissioner of Banks.

BD 205 Fees.

(a) The origination fee may not exceed $25 but shall not be collected unless there is a valid contract with a written budget analysis indicating that the debtor can reasonably meet the requirements of the financial adjustment plan and will be benefited by the plan.

(b) No additional charges are allowed (i.e., filing wage assignments, purchasing money orders, dishonored checks, telephone calls, telegrams, etc.)

(c) No cancellation fee is allowed.

BD 206 Separability of Rules. If any provision of these Rules or the application thereof to any party or circumstances is held invalid, the remainder of the Rules and the application of such provisions to other parties or circumstances shall not be affected thereby.

BD 207-225 Reserved for Future Use.

Amended and filed with the Secretary of State and Commissioner of Administration January 20, 1972.

Rules Relating to Electronic Funds Transfer Terminals
4 MCAR §§ 1.0226-1.0231

§ 1.0226 Authority, scope and purpose. Minn. Stat. § 47.71, authorizes the Commissioner of Banks to promulgate rules as are reasonably necessary to carry out and make effective the provisions and purposes of the Act. 4 MCAR §§ 1.0226 to 1.0231 relate to the operation of electronic funds transfer terminals, the manner and information required in the submission of applications for authorization, establishes minimum technical operation standards, and requires disclosure of information to customers using such terminals. These rules establish an application procedure and guide to standards considered reasonable to accomplish the purposes of the Act. Further, the Act mandates the promulgation of rules to inform, guide and protect the consumer, retailers and financial institutions in the utilization of electronic financial terminal systems. These rules further set out specific requirements concerning the issuance of cards, disclosures of pertinent required information and reporting of data relating to financial transactions initiated at electronic financial terminals.

§ 1.0227 Definitions. All terms in these rules which are defined in Minn. Stat. §§ 47.61 through 47.74 shall have the meanings attributed to them therein. For the purpose of Minn. Stat. §§ 47.61 through 47.74 and these rules, terms defined herein shall have the meanings given to them.

A. "Act" means Minn. Stat. §§ 47.61 through 47.74 (Laws of 1978, ch. 469), as enacted and subsequently amended.

B. "Card" means the device used to activate a terminal, including a credit card or debit card.

C. "Card Issuer" means a financial institution or a person authorized by a financial institution providing the use of a terminal to a customer to be activated by a card.

D. "Control" means:

1. the ownership of greater than 50 percent interest in the terminal or terminals; or

2. any leasehold interest in the terminal or terminals; or

3. the power to act as agent or card issuer authorized by those persons having ownership or leasehold interests in the terminal or terminals for purposes of the Act and these rules.

E. "Customer" means any person who has established a contractual relationship with a financial institution whereby that person is authorized to initiate any of those functions permitted to be performed under the Act at a terminal.

F. "Operator" means any person who assists in the initiation of terminal transactions on behalf of a customer. Operator does not include an employee of a financial institution, financial institution holding company or subsidiary thereof of the customer. For purposes of 4 MCAR § 1.0228 C., operator does not include individual employees of a provider or retailer.

G. "Person" means any individual, body politic or corporate, partnerships or other unincorporated associations, including a financial institution.

H. "Personal Identification Code" is the confidential code provided to the customer which is necessary to the completion of a transaction at a terminal.

I. "Provider" means the person or persons having control over a terminal under the Act.

J. "Terminal" means an electronic financial terminal as defined in the Act.

K. "Transaction" means each separate, identifiable, financial function performed at a terminal as authorized under the Act.

§ 1.0228 Electronic financial terminal application for authorization; notification requirements.

A. Any person, including a card issuer, seeking approval to act as a provider of a terminal or terminals at a specific retail location shall, not less than 45 days before the establishment of the terminal or terminals, file with the Commissioner a written application on a form provided by the Commissioner entitled ELECTRONIC FINANCIAL TERMINAL AUTHORIZATION APPLICATION. Such application shall include the following information:

1. name and principal address of the person filing the application, together with such person's financial statement for the most recently closed fiscal year.

2. the name and principal address of the person or persons having control thereof, if other than the applicant, together with such persons' financial statements for the most recently closed fiscal year.

3. descriptive information including:

a. the number of terminals applied for.

b. the retail location of each terminal by street address or other designation, including city and county.

c. the manufacturer, model number and type of the terminal.

4. whether the terminal will be attended or unattended and, if attended, by whose employees or agents as operators.

5. the functions to be performed at the terminal.

6. schedule of charges to be paid to the provider by those financial institutions sharing the terminal or terminals.

7. a complete description of the physical and technical operation standards pertaining to the terminal, including information and specifications necessary to enable a financial institution which is eligible to share the terminal to obtain interface with the terminal.

8. operational information shall include:

a. the manner in which the terminal is activated.

b. anticipated hours of use.

c. anticipated date of first use of the terminal following approval by the Commissioner.

d. name and principal address of any financial institution, other than the provider, which is permitted or is seeking permission from the provider to share the terminal.

9. all agreements used or intended to be used relating to the ownership, operation and control of the terminal, including agreements with and disclosures to customers required by the Act and 4 MCAR § 1.0230 A.

10. a description of the safeguards to be used to meet the terminal security requirements of section 8 of the Act.

11. a description of the procedures to be used to meet the customer privacy requirements of section 9, subd. 1, of the Act.

12. a description of the procedures to be used to minimize losses due to unauthorized withdrawals from customer accounts by use of a terminal as required by section 9, subd. 3, of the Act.

13. evidence of the bond or other means adopted to comply with the provisions of section 4, subd. 5, of the Act.

14. certification under oath by the applicant that all requirements of the Act and of these rules shall be met and shall be observed.

B. The Commissioner shall be given written notice by the applicant within 30 days following the contracting by a provider with additional financial institutions which have been permitted to share the terminal or terminals.

C. The Commissioner shall be given written notice by the applicant not less than 30 days prior to the change of control or change of the operator of any terminal or terminals.

D. The Commissioner shall be given written notice by the applicant of the termination of terminal operations at the location authorized not more than 10 days after termination of all regulated activity.

§ 1.0229 Technical operation standards.

A. For purposes of approval by the Commissioner of applications for the establishment and use of terminals, the following technical operation standards and requirements shall be deemed reasonable:

1. physical specifications for cards are those established by the American National Standards Institute, Inc., ANSI X4.13-1971, corrected edition, as approved April 28, 1971, as to its paragraphs 2 through 5.3, inclusive.

2. special physical characteristics applicable to magnetic stripped encoded cards are those characteristics established by the American National Standards Institute, Inc., ANSI X4.16-1976, as approved February 24, 1976, as to its paragraphs 2 through 5.6.5, inclusive.

3. the receipt or record provided to the customer for each transaction initiated at a terminal shall contain the following information:

a. date of the transaction;

b. amount of the transaction;

c. description of the transaction which may be in clear and understandable abbreviations or codes;

d. identity of any customer's financial institution with whom funds are electronically transferred.

4. all financial transactions performed at a terminal as authorized by section 3 of the Act shall be processed as if the transactions were conducted at the principal office of the financial institution having due regard for the reasonable time necessary for the transportation or transmission of data or funds deposited or received at the terminal in cash or checks to the point of verification by the financial institution. There shall be no differential in such time delay, if any, between the various permitted transactions initiated at a terminal unless acknowledged in writing by the customer. In the event cards meeting the requirements of the Act and these rules are outstanding under a pre-authorized agreement and in lieu of an acknowledgement in writing by the customer, such time differential shall be disclosed to the customer in writing before authorization for use of a terminal.

5. a personal identification code shall be utilized as a means of verification of the authenticity of transactions to be completed at a terminal. The personal identification code shall not be distributed until the financial institution issuing the card has received the customer's signed contract.

B. In lieu of compliance with subdivisions A.1 and A.2 of this section, an applicant seeking approval for the establishment and use of a terminal or terminals may adopt alternative physical specifications and physical characteristics for cards upon a showing that the proposed alternative specifications and characteristics meet or exceed the requirements set forth in subdivisions A.1 and A.2 in providing the following:

1. protection to the customer and sharing financial institutions against misuse or unauthorized use of cards;

2. reliability of accurate processing of information regarding transactions performed through the use of the cards; and

3. fair, equitable and non-discriminatory access to the terminal by other potential sharing financial institutions.

§ 1.0230 Customer disclosure requirements.

A. Pursuant to section 9 of the Act, the following information shall be disclosed in writing by the card issuer to its customer at the time the card is issued or in the event cards meeting the requirements of the Act and these rules are outstanding, this disclosure shall be made before the customer is allowed to use a terminal:

1. the types of financial transactions available through the use of the terminal.

2. the schedule of charges made by the financial institution for the customer's use of the terminal.

3. any restrictions or limits on the number of transactions or dollar value limits which may be imposed upon the customer by the card issuer.

4. the frequency for sending periodic transaction statements to the customer.

5. the procedure to be used to give notice of error to the card issuer. Said disclosure shall include the manner in which notice of error is to be filed and with whom it is to be filed, and shall include the mailing address and telephone number of the person to whom notice may be given.

6. the specific manner in which the agreement under which a card was issued may be terminated, either by the card issuer or by the customer.

7. the customary time needed to complete terminal transactions with the financial institution clearly stating differential in time if any between the various permitted transactions initiated at a terminal.

8. where payment for goods or services is made by a transfer of funds through a terminal:

a. whether the transaction may be reversed by the customer;

b. the procedure by which the transaction may be reversed; and

c. a statement that the payment for goods or services made in this manner shall not affect any of the rights, protections or liabilities in existing law concerning a cash or credit sale made by means other than through the use of a terminal.

9. a statement that the financial institution shall be liable for all unauthorized withdrawals unless the unauthorized withdrawal was:

a. due to the negligent conduct or the intentional misconduct of the operator of an electronic financial terminal or his agent in which case the operator of an electronic financial terminal or his agent shall be liable;

b. due to the loss or theft of the customer machine readable card in which case the customer shall be liable, subject to a maximum liability of $50, for those unauthorized withdrawals made prior to the time the financial institution is notified of the loss or theft. An unauthorized withdrawl is a withdrawal by a person other than the customer who does not have actual, implied or apparent authority for such withdrawal, and from which withdrawal the customer receives no benefit.

10. a statement that any customer may bring a civil action against any person violating the consumer privacy and unauthorized withdrawal provisions of the Act and may recover, in addition to actual damages, or $500, whichever is greater, punitive damages, together with the court costs and reasonable attorney's fees incurred.

11. a statement that to protect the privacy of customers using electronic financial terminals, including any supporting equipment, structures or systems, information received by or processed through such terminals, supporting equipment, structures or systems shall be treated and used only in accordance with applicable law relating to the dissemination and disclosure of such information. The person establishing and maintaining an electronic financial terminal, including any supporting equipment, structures or systems, shall take such steps as are reasonably necessary to restrict disclosure of information to that necessary to complete the transaction and to safeguard any information received or obtained about a customer or his account from misuse by any person manning an electronic financial terminal, including any supporting equipment, structures or systems.

B. All information required to be disclosed by subd. A. of this section shall be printed in not less than eight-point type, .075 inch computer type, or elite-size typewritten characters.

C. A directory listing as permitted under the Act shall be made available by the applicant at the retail location of the terminal identifying the financial institutions using its services.

§ 1.0231 Transaction statement. A financial institution shall provide each customer with a periodic transaction statement at least quarterly. The statement shall include, but need not be limited to, the following:

A. date of transaction.

B. amount of each transaction.

C. type of each transaction which may be in clear and understandable abbreviations or codes.

§§ 1.0232-1.0239 Reserved for future use.

SUBDIVIDED LAND SALES PRACTICES ACT

Rules and Regulations for Minnesota Laws 1973 Supplement, Chapter 83

SDiv 1600 (M.S. 83.20) (a) **Advertising.** All advertising as defined in Minn. Stat. 1973, Section 83.20, Subdivision 1 shall be filed with the Commissioner prior to its use. All advertising shall satisfy the requirements specified herein and such additional requirements as the Commissioner may impose to assure full and fair disclosure for the protection of purchasers. The subdivider or applicant shall submit a true copy of any advertisement to be used in connection with the offering as an exhibit or amendment to the public offering statement.

(b) **Definitions.** For the purposes of advertising, the terms defined herein shall have the following meanings:

(1) **Fully improved lots** — lots may be described as fully improved only if the subdivision has paved roads, including concrete or asphalt, community or public water and sewer systems, gas, electricity and telephone.

(2) **Improved lots** — means lots that are not fully improved because of lack of one or more of the requisite improvements as provided in paragraph (1) above.

(3) **Unimproved lots** — lots shall be described as unimproved when they have not been provided with any requisite improvements as provided in paragraph (1) above.

(c) **General Standards.**

(1) All claims or representations contained in any advertising shall be accurate and provable.

(2) It shall be fraudulent or misleading for any person in connection with the offer, sale or purchase of any subdivided lands, directly or indirectly:

(aa) to employ any device, scheme or artifice to defraud,

(bb) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or

(cc) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(d) **Subdivision Advertising Criteria.** The use of any advertisement, including but not limited to print, radio broadcast or telecast concerning subdivided lands which contains any of the following, shall be presumed to be fraudulent, deceptive or misleading as provided in Minn. Stat. 1973, Section 83.29, Subdivision 2(2).

(1) The use of a name or trade style which implies that the subdivider, his agent or affiliate is a bona fide research organization, public bureau, non-profit group, or other similar establishment, when such is not the case.

(2) Reference to any improvement, facility, or utility in the subdivision which does not actually exist or is not yet completed unless completion is assured within a reasonable time by bonding or other means acceptable to the Commissioner.

(3) Reference to streets, roads, sewers, drainage or other utilities or conveniences which have not been accepted for maintenance by the subdivider or any other entity, unless such fact is fully disclosed.

(4) Reference to the availability of financing for on-site construction, unless written evidence thereof is in the possession of the subdivider and is available for inspection by prospective purchasers.

(5) Reference to unimproved subdivided lands as "developments" or "homesites" or other similar expressions, without reciting the improvements, if any, provided or to be provided by the subdivider. If no improvements are to be provided by the subdivider, the advertisement shall so state.

(6) Reference to roads which fail to disclose the true nature thereof and reference to such roads as improved unless they conform to applicable county or planned development specifications and have concrete, asphalt, or other surfaces acceptable to the Commissioner.

(7) Proposed rule withdrawn, Reserved for future use.

(8) Reference to points of interest, to cities or towns, to facilities or features located more than one mile from the nearest point in the subdivision, unless the distance in road miles along existing roads and the nature thereof is included.

(9) The use of "artists' conceptions" or renderings of the property and/or facilities, unless they are captioned as such and the subject matter of the conception or rendering has been bonded pursuant to SDiv 1604(b).

(10) The use of maps to show proximity to other communities or points of interest, unless such maps are drawn to scale and the scale appears on the map together with a statement of the distance in miles.

(11) For subdivisions proposing the purchaser supply his own water, reference to the water supply by the use of such superlatives or phrases as "abundant water," "plenty of water" or terms of similar import.

(12) Unqualified reference to any utility services as "available," unless such utility services are installed and ready for use, or adequate financial arrangements have been made for their installation.

(13) Reference to any facilities not a part of the subdivision which are to be constructed by the subdivider, which do not actually exist or are not completed, unless adequate financial arrangements have been made for such facilities.

(14) Reference to any clubs, clubhouses or recreational facilities unless a reasonable estimate of the cost and any limitations or restrictions on use are fully disclosed in the public offering statement.

(15) Use of the words "exclusive" or "private" or words connoting the same when the general public has the right to access of any kind to any portion of the subdivision, unless the public rights to access are fully disclosed.

(16) Reference to property as "waterfront" unless the property being offered actually fronts on a canal or other body of water.

(17) The use of forecasts of future events or population trends unless such forecast was prepared on a current basis by a valid government regulatory or information agency.

(18) The use of reprints of published material unless the information contained in the reprint is representative, truthful, relevant and pertinent to the subdivision being offered.

(19) The advertising of a lot as "free" if the purchaser is required to give any consideration whatsoever, and lots shall not be advertised for "closing costs only" when the closing costs are substantially more than normal, or when an additional lot or lots must be purchased at a higher price or to render the "free" lot usable.

(20) Reference to pre-development sales at a lower price because the land has not yet been developed unless there are plans of development, and a subdivision plat has been recorded.

(21) Reference that the property being offered for sale may be subdivided or re-subdivided unless it includes all necessary and relevant information regarding the cost and feasibility of future subdividing.

(22) Reference that the subdivider or an affiliate will resell or repurchase the property being offered at some future time unless the subdivider has made such a representation in writing to the Commissioner and the prospective purchasers, and it reasonably appears to the Commissioner that the subdivider or the affiliate has the ability to resell or repurchase.

(23) The use of the lot price unless such price includes all assessments or charges that must be paid by the purchaser or, in the alternative all assessments and charges are identified, including the dollar amount, and stated with the lot price.

(24) The use of lot prices when such lots constitute less than ten (10) percent of the total unsold inventory available for purchase.

(25) Reference to a discount in the lot price unless the subdivider shall furnish to the prospective purchaser a price list, a statement that the offer represents a special limited offer and the length of time the offer will be available.

(26) Reference to any increase in price unless the increase is valid and a copy of the proposed new price schedule and the date of the price increase is furnished to the prospective purchaser.

(27) Reference to the subdivider by any name other than that appearing on the public offering statement. Reference to any other entity shall state the relationship of that entity to the subdivider.

(28) Proposed rule withdrawn. Reserved for future use.

(29) The use of any advertising which fails to prominently disclose that the property or any portion of the property is subject to regular or periodic flooding or covered by standing water for extended periods of time during the year if such is the case.

(30) Reference to anything otherwise prohibited by Minn. Stat. 1973, Chapter 82 and Chapter 83 and the rules and regulations promulgated thereunder.

Nothing contained herein shall limit the authority of the Commissioner to take formal action against an owner, subdivider or his agent for the use of fraudulent, deceptive or misleading advertising of a type not specifically described herein.

SDiv 1601 (M.S. 83.23) (a) Guidelines for Preparing Applications for Registration. The guidelines set forth hereafter are intended to indicate the form and informational content of an application for registration required by the Securities Division of the Department of Commerce. These guidelines shall be applicable to applications filed for registration pursuant to Minn. Stat. 1973, Sections 83.23 and 83.26(2)(b). The primary purpose of the application for registration is to provide compliance with the requirements of Minn. Stat. Chapter 83 and the rules and regulations promulgated thereunder. The information to be included in the application for registration is set out in detail in this section. The information requested is not to be viewed as determinative of the entire obligation of disclosure. Disclosure and the manner of disclosure will depend upon the particular facts and circumstances involved. Disclosure means more than merely compiling the information requested by the application form or supplying the information suggested by the guidelines. This obligation is the independent obligation of the subdivider, its counsel, its accountant and others contributing to the disclosure to the extent of their contribution. Applications for registration which are inadequately prepared and seriously deficient in terms of compliance with the statute and rules will be summarily denied.

An application for registration of subdivided land shall be typewritten and submitted on 8½" x 14" white bonded paper. The application shall state verbatim the questions in this section, with the appropriate answers underneath each question or attached as an addendum. Such application shall be in the following form:

File No. _____
Date Approved _____
Date Denied _____
Examiner _____
Commissioner _____

REGISTRATION OF SUBDIVIDED LANDS

SDiv 1602 (M.S. 83.23) (a)

This form is to be prepared and filed pursuant to Chapter 83 of the Minnesota Statutes, 1973, Section 83.23, Subd. 3 and mailed to:

State of Minnesota
Department of Commerce
Securities Division
5th Floor, Metro Square Building
St. Paul, Minnesota 55101

1.(a) State the name of the subdivision.

(b) State the exact location of the property identifying the closest community and the distance thereto.

(c) State the total number of lots, parcels, units or interests to be offered in this offering.

2.(a) State the name and address of the subdivider.

(b) State the form, date of organization and jurisdiction of the organization filing this registration.

(c) State the name and address of each of the organization's offices in this state.

(d) State the names and addresses of the organization's agents in this state.

3.(a) State the name, address and principal occupation for the past five years of each director, officer and partner of the subdivider and every person occupying a similar status performing similar functions.

(b) State the name and address of each owner of 10 percent or more of the subdivider in the event that the subdivider is a corporation or partnership.

(c) If the response to subparagraph (b) above is in the affirmative, state the extent and nature of the interest identified in the subdivider or in the lands to be subdivided as a date 30 days prior to the filing of this application.

4. State the condition of title to the land to be subdivided, including but not limited to, a statement reflecting all encumbrances, deed restrictions, and covenants applicable to such title and state the condition of the title as recorded as of a date 30 days prior to the filing of this application. THE STATEMENTS REQUIRED BY THIS PARAGRAPH MUST BE AUTHORED BY A LICENSED PRACTICING ATTORNEY WHO IS NOT A SALARIED EMPLOYEE, PARTNER, OFFICER, OR DIRECTOR OF THE SUBDIVIDER OR AN AGENT OF THE SUBDIVIDER, AND SUCH ATTORNEY SHALL CERTIFY AS PART OF THE STATEMENT THAT SAID ATTORNEY ENJOYS SUCH A STATUS; OR BY A TITLE INSURANCE COMPANY ACCEPTABLE TO THE COMMISSIONER.

5.(a) Append hereto copies of instruments which will be delivered to a purchaser evidencing the interest to be acquired in the subdivided lands.

(b) Append hereto copies of contracts and other agreements which a purchaser would be required to agree to or sign.

(c) State the range of selling prices, rates or rentals at which it is proposed the subdivided lands, including lots, units, parcels or other interests in said subdivided lands, will be disposed of, together with a list of mandatory fees the purchaser may be required to pay for membership in groups such as home owners' associations, country clubs, golf courses and other community organizations.

6. Append thereto copies of the instruments by which the interest in the subdivided land was acquired by the applicant or the subdivider.

7. In the event that there is a lien or encumbrance affecting the subdivided land or any portion thereof as disclosed in paragraph 3 above append hereto a legal description of the lien or encumbrance. Further, if said lien or encumbrance exists, what efforts if any, the subdivider has taken to protect the purchaser in the case of failure to discharge the lien or encumbrance.

8. Append hereto copies of instruments creating, altering or removing easements, restrictions or other similar encumbrances affecting the subdivided lands.

9. Append hereto a legal description of the lands to be subdivided verified by affidavit of an independent professional land surveyor which shall include a statement of the topography and a topographical map together with a map showing the division to be proposed or made, the dimension of the lots, parcels, units, or interests and the relation of the subdivided lands to existing streets, roads, and other offsite stakes have been placed in accordance with the land surveyed.

10. If such markers, monuments or stakes have not been placed, state the estimated cost of accomplishing this result.

11. Name the states or other jurisdictions in which an application for registration has been filed and whether any adverse order, judgment or decree has been entered in connection with the sale of subdivided land by any regulatory authority, by any jurisdiction or by any court.

12.(a) State whether local zoning and other governmental laws, ordinances and regulations affecting the use of these subdivided lands and adjacent properties have been complied with.

(b) State the dates of the most recent zoning changes indicating the nature of such changes, any additional proposed changes now pending which may affect the use of the lands to be subdivided.

(c) State whether there are any existing tax and existing or proposed special taxes or assessments which may affect land to be subdivided.

13.(a) State what provisions have been made for access to the subdivision.

(b) State the availability of sewage disposal facilities and other public utilities, including but not limited to, water, electricity, gas, and telephone facilities in the subdivision.

(c) State the proximity in miles of the subdivision to nearby municipalities.

(d) State the availablity and scope of existing community fire and police protection.

(e) State the location of primary and secondary schools.

(f) State the improvements to be installed, including off-site and on-site community and recreational facilities, including a statement identifying by whom such facilities are to be installed, maintained, and paid for and an estimated schedule for completion.

(g) Append hereto copies of performance and completion bonds covering all lots or parcels within the subdivision on which money

is paid or advanced by a purchaser to assure that the planned improvements will be completed.

14. Append hereto a narrative description of the promotional plan for the sale, lease, option, assignment, or other disposition of the subdivided lands together with copies of all advertising material which will be employed in the public disposition of the subdivided lands.

15. Append hereto a copy of the proposed public offering statement.

16. Append hereto a financial statement of the subdivider as of the end of the subdivider's most recent fiscal year bearing a certification reflecting an audit by an independent certified public accountant. If the fiscal year end of the subdivider is in excess of 90 days prior to the date of filing the application, a financial statement, which may be unaudited, is to be appended reflecting the financial condition of the subdivider as of a date within 90 days of the date of the application.

17. State the condition of the land to be subdivided as it existed in its natural state, prior to development, and state in narrative fashion any changes that have accurred through the subdivider's efforts current to the date of this application.

18. A statement asserting that the subdivision is in compliance with federal, state and local environmental quality standards; if the subdivision is not in compliance, a listing of the steps to be taken, if any, to insure compliance.

19. State what permits are required to be obtained from federal, state and local agencies having jurisdiction over the development or subdivision of the land to be subdivided. Indicate which permits have been obtained, which have been applied for and state whether any permit has been refused, including a statement of the reasons for the refusal and the effect such refusal will have on subsequent development of the subdivision.

20. State whether the subdivider or any of its officers, directors, partners, principals or agents have been convicted of a crime involving land disposition or any aspect of the land sales business in this state, any other state, under the laws of the United States of America, or in any foreign country within the last 10 years or has been subject to any injunction or administrative order entered within the past 10 years enjoining or restraining any promotional plan or sales activity involving land disposition. If the response is in the affirmative, state the name of the person or company involved, the jurisdiction, and provide a complete statement of the offense and the dates on which the offense occurred.

21. Append hereto a statement subscribed to by the subdivider attesttesting to the capacity of the subdivider to convey or cause to be conveyed the interest in the subdivided lands offered for sale, lease, option, assignment or other disposition when the purchaser has complied with and fulfilled the terms of the offer where applicable. The statement should include a description of release clauses, conveyances in trust or other safeguards which the subdivider has provided for the protection of the purchaser.

THE SUBDIVIDER CONSENTS TO PERMIT INSPECTION OF THE LOTS, PARCELS, UNITS OR INTERESTS TO BE OFFERED AND

FURTHER TO PERMIT INSPECTION OF ITS BOOKS, RECORDS, ACCOUNTS AND FILES BY THE COMMISSIONER OF SECURITIES OR HIS DESIGNEE WITH REFERENCE TO THE SALE OF THE SUBDIVIDED LANDS DESCRIBED HEREIN, AND AGREES TO PROVIDE THE COMMISSIONER WITH SUCH ADDITIONAL INFORMATON WITH RESPECT TO THE SALE OF THESE SUBDIVIDED LANDS AS HE MAY REQUIRE.

The undersigned certifies that he has read the contents of the above form and the exhibits appended hereto and certifies that he has personal knowledge of the contents hereof and knows the responses set forth are true and accurate.

Dated this _____ day of _____ _____
Subdivider

BY ITS _____

Subscribed and sworn to before me

this _____ day of _____

_____

SDiv 1603 (M.S. 83.23) (a) Consent to Service of Process.

NOW ALL MEN BY THESE PRESENTS:

That the undersigned, _____ (a corporation organized under the laws of the State of _____) for the purpose of complying with the laws of the State of Minnesota relating to either the registration or sale of subdivided land, hereby irrevocably appoints the Commissioner of Securities, and the successors in such office, its attorney in the State of Minnesota upon whom may be served any notice, process or pleading in any action or proceeding against it arising out of or in connection with the sale of subdivided land or out of violation of the aforesaid laws of said State; and the undersigned does hereby consent that any such action or proceeding against it may be commenced in any court of competent jurisdiction and proper venue within said State by service of process upon said officer with the same effect as if the undersigned was organized or created under the laws of said State and had lawfully been served with process in said State.

It is requested that a copy of any notice, process or pleading served hereunder be mailed to:

_____
Name and Address

_____

Dated: _____, 19__.

_____

(SEAL)

By _____

Title_____

By _____

Title_____

CORPORATE ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____ } SS.

On this _____ day of _____, 19____, before me _____, the undersigned officer, personally appeared _____ and _____, known personally to me to be the _____ President and _____ Secretary, respectively, of the above named corporation, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as such officers.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

_____
Notary Public

(Notarial Seal)

My commission expires _____

INDIVIDUAL OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____ } SS.

On this _____ day of _____, 19____, before me _____, the undersigned officer, personally appeared _____, to me personally known and known to be the same person(s) whose name(s) is(are) signed to the foregoing instrument, and acknowledged the execution thereof for the uses and purposes therein set forth.

IN WITNESS WHEROF I have hereunto set my mind and official seal.

_____
Notary Public

(Notarial Seal)

My commission expires: _____

CORPORATE RESOLUTION

OF

_____
(Name of Corporation)

RESOLVED, that it is desirable and in the best interest of this Corporation that its subdivided land be qualified or registered for sale in various states; that the President or any Vice President and the Secretary or an Assistant Secretary hereby are authorized to determine the states in which appropriate action shall be taken to qualify or register for sale all or such part of the subdivided lands of this Corporation as said officers may deem advisable: that said officers are hereby authorized to perform on behalf of this Corporation any and all such

acts as they may deem necessary or advisable in order to comply with the applicable laws of any such states, and in connection therewith to execute and file all requisite papers and documents, including, but not limited to, applications, reports, performance or completion bonds irrevocable consents and appointments of attorneys for service of process; and the execution by such officers of any such paper or document or the doing by them of any act in connection with the foregoing matters shall conclusively establish their authority therefor from this Corporation and the approval and ratification by this Corporation of the papers and documents so executed and the action so taken.

CERTIFICATE

The undersigned hereby certifies that he is the _____ Secretary of _____, a corporation organized and existing under the laws of the State of _____; that the foregoing is a true and correct copy of a resolution duly adopted at a meeting of the Board of Directors of said corporation held on the _____ day of _____, 19____, at which meeting a quorum was at all times present and acting; that the passage of said resolution was in all respects legal; and that said resolution is in full force and effect.

Dated this _____ day of _____, 19____.

(Corporate Seal)

_____
Secretary

SDiv 1604 (M.S. 83.23) (a) **Operating and Maintenance Funds During Start-up.** When the offering involves a development and/or maintenance of common areas by the subdivider, an owners association or other entity, the subdivider shall be required to comply with one or more of the following to assure the availability of funds for the ownership, operation and maintenance of such common areas:

(1) Posting of a surety bond or other adequate security in an amount and subject to such terms, conditions and coverage as the Commissioner may require;

(2) Postponement of closing of any escrow until 60% of all lots, parcels or units have been sold and are simultaneously closed;

(3) Deposit with an escrow acceptable to the Commissioner of funds equal to estimated ownership, operation and maintenance expenses for common areas as determined by the Commissioner. An escrow acceptable to the Commissioner shall be one in which the funds are held within this jurisdiction and will be released only with the written consent of the Commissioner.

(4) An alternative plan acceptable to the Commissioner.

(b) **Improvements.** When certain improvements are designated in the application for the registration or the application for the exemption but are not totally completed by the effective date, the subdivider shall comply with one or more of the following to assure that the improvements will be completed.

(1) Posting of a surety bond or other adequate security in an amount and subject to such terms, conditions and coverage as the Commissioner may require;

(2) Deposit with an escrow acceptable to the Commissioner of funds equal to the estimated cost of completion of the improvements as determined by the Commissioner. An escrow acceptable to the Commissioner shall be one in which the funds are held within this jurisdiction and may be released only with the written consent of the Commissioner.

(3) Irrevocable letters of credit from a lending institution acceptable to the Commissioner in an amount and subject to the terms and conditions as the Commissioner may require.

(4) An alternative plan acceptable to the Commissioner.

(c) **Service of Process.** When a surety bond is required and is filed in another jurisdiction in satisfaction of requirements similar to this section, and such bond is acceptable to the Commissioner, the surety company shall appoint the Commissioner as agent for service of process in this jurisdiction.

(d) **Purchaser Supply Own Water.** For subdivision proposing the purchaser supply his own water the public offering statement shall disclose the following:

(1) The average, maximum and minimum depths to ground water within the subdivision.

(2) The recommended total depths of wells.

(3) The estimated yield from such wells.

(4) The life expectancy of the water supply under full development of the subdivision.

(5) The lithologic character of formations through which the well is to be completed.

(6) The source and yield of surface water supply, if any.

(7) The use of the land prior to development with emphasis on whether or not the soils, and ground waters, may be contaminated in some way.

SDiv 1605 (M.S. 83.23) (a) **Licenses, Permit or Written Approval.** The following is a list of licenses, permits, or other written approvals required by the State of Minnesota and local governing bodies. The list is intended as a guide for the procurement of the proper license, permit or written approval for subdivisions located within the State of Minnesota. Those subdivisions located outside of Minnesota will be required to conform to the state and local requirements of that jurisdiction. This list should not be construced as complete. Each subdivider will be required to obtain all state and local licenses, permits, or written approval where applicable, whether or not contained herein.

(1) A license, permit, or other written approval from the Department of Natural Resources must be obtained prior to the commencement of the activities contained herein:

(aa) Appropriation of any public water-surface or underground.

(bb) Removal by cutting of aquatic vegetation.

(cc) Placement of any fill material (temporary or permanent) which will change the course, current or cross-section of any public water.

(dd) Water level control structures.

(ee) Dam construction or abandonment.

(ff) Fish or wildlife impoundments.

(gg) Revetments and other shore protection.

(hh) Breakwater, wharfs, or jetties.

(ii) Boathouse and permanent dock construction or replacement.

(jj) Channel or shoreline excavation.

(kk) Stream or channel enlargement or relocation.

(ll) Extensions of public water.

(mm) Harbors and marinas.

(nn) Underwater sewer and water lines.

(oo) Navigational improvements or obstructions.

(pp) Bridges and piers.

(qq) Beach sand blankets.

(rr) Any other alteration of public waters not mentioned herein.

(ss) Utility crossings.

(tt) Cluster developments in shoreland areas.

(2) A license, permit, or other written approval from the Department of Health must be obtained prior to the commencement of the activities contained herein:

(aa) The operation of a hotel-motel, resort lodging house, boarding house, restaurant or place of refreshment as defined in Minnesota Statutes 1971, Chapter 157.

(bb) The operation of mobile home park or recreation camping area as defined in Minnesota Statutes 1971, Chapter 327.

(cc) Approval of the plans for all buildings and facilities that are publicly owned or are for use by the public.

(dd) Licenses pertaining to wells and soil absorption sewage disposal.

(3) If a trunk highway runs through or is adjacent to a subdivision, a permit from the Department of Highways is required to construct entrances connecting with such trunk highway.

(4) A permit must be obtained from the Poluution Control Agency to construct, install or operate a disposal system pursuant to Minnesota Statutes 1971, Chapter 115.

(5) A license, permit, or other written approval from the local governing body must be obtained prior to the commencement of the activities contained herein.

(aa) A building permit for the construction of, or addition to, a building, road, or other improvement.

(bb) An electrical permit.

(cc) A plumbing permit.

(dd) A permit to install heating, air conditioning, or ventilation system in a building or other improvement.

(ee) A permit to install an elevator.

(ff) A permit for the construction of advertising signs.

(gg) Any other license, permit or written approval as required by the local governing body.

SDiv 1606 (M.S. 83.23) (a) Computation of Time.

(1) Where the performance or doing of any act, duty, matter, payment, or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law, rule or order, such time, except as otherwise provided in (2) below, shall be computed so as to exclude the first and include the last day of any such prescribed or fixed period or duration of time. When the last day of such period falls on Sunday or on any day made a legal holiday, by the laws of this state or of the United States, such day shall be omitted from the computation.

(2) When the lapse of a number of months before or after a certain day is required by the law, rule or order, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

SDiv 1607 (M.S. 83.24) (a) Guidelines for Public Offering Statement.

(1) The guidelines set forth hereafter are intended to indicate the form and informational content of an offering statement acceptable to the Securities Division of the Department of Commerce. The primary purpose of the public offering statement is to inform a prospective purchaser of the terms upon which said purchaser may acquire the property offered, the risks inherent in the purchase, material facts respecting the history, business, management, and capitalization of the subdivider offering said property for sale, and such other information necessary and material to briefly and accurately advise a prospective purchaser of the nature and character of the property purchased.

What must be disclosed and the manner of disclosure in any offering statement will depend upon the particular facts involved. Disclosure means more than merely compiling the information required by the application form or supplying the information suggested by these guidelines. Since substantial criminal and/or civil penalties may result from incomplete or misleading disclosure, it is the independent obligation of the subdivider, its counsel, its accountant, and others contributing to said disclosure to determine what information is relevant to full and fair disclosure and to supply that information whether or not it is also required by the application form or suggested by these guidelines.

IT IS THE OBLIGATION OF THE SUBDIVIDER IN EVERY CASE TO ADD TO THE INFORMATION REQUIRED SUCH FURTHER INFORMATION, IF ANY, AS MAY BE NECESSARY TO MAKE THE

REQUIRED STATEMENTS, IN LIGHT OF THE CIRCUMSTANCES UNDER WHICH THEY ARE MADE, NOT MISLEADING.

(2) The public offering statement shall state the verbatim questions in this section. The subdivider shall answer the questions directly and completely in accordance with the above instructions and employ the following language on the face of the offering statement, which may appear either in printed form or attached to the property report filed with the Office of Interstate Land Sales, United States Department of Housing and Urban Development:

(aa) The properties offered for sale have not been approved or disapproved by the Securities Division, Department of Commerce, State of Minnesota, nor has the Department of Commerce passed upon the accuracy or adequacy of this offering statement. Any representation to the contrary would be a criminal offense.

(bb) No act of a purchaser shall be effective to waive the right to rescind.

(cc) Minnesota Law provides a purchaser has an unconditional right to rescind any contract, agreement or other evidence of indebtedness, or to revoke any offer, at any time prior to or within five days after the date the purchaser actually receives a legible copy of the binding contract, agreement or other evidence of indebtedness or offer and the public offering statement.

SDiv 1608 (M.S. 83.24) (a) **Public Offering Statement.** A proposed public offering statement submitted to the Commissioner shall be in the following form and shall include:

1. Name(s) of subdivider_____
   Address _____
2. Name of subdivision_____
   Location _____ County, State of _____
   a. Effective date of Public Offering Statement_____
   b. This offering consists of _____

3. List names and populations of surrounding communities and list distances over paved and unpaved roads to the subdivision.

Name of community	Population	Distance over paved roads	Unpaved roads	Total
a.				
b.				
c.				
d.				
e.				

4. If periodic payments are to be made by a purchaser (as in the case of installment sales contracts) complete all items under this paragraph 4. If not, enter "Not Applicable."

a. Will the sales contract be recordable? Yes or No?

b. In the absence of an immediate recording of the contract or deed, could third parties or creditors of any person having an interest in the land acquire title to the property free of any obligation

to deliver a deed? Yes or No?_____ Explain_____

_____

c. State when the contract or deed will be recorded, and who will record it. State who will bear the costs of recordation, and the amount if those costs are to be borne by the purchaser.

d. What provision, if any, has been made for refunds if purchaser defaults? If none, and the purchaser payments are to be retained, state whether his loss will be limited to the amount of his payments to date, or whether he will be responsible to the subdivider or his assignees for additional damages or for the balance of his contract.

5. Is there a blanket mortgage or other lien on the subdivision or portion thereof in which the subject property is located? Yes or No? If yes, list below and describe arrangements, if any, for protecting interests of the buyer or lessee if the subdivider defaults in payment of the lien obligation. If there is such a blanket lien, describe arrangements for release to a purchaser of individual lots when the full purchase price is paid.

	Type of lien	Effect on purchaser if subdivider defaults
a.	_____	_____
b.	_____	_____
c.	_____	_____

6. Does the offering contemplate leases of the property in addition to, or as distinguished from, sales? Yes or No? If yes, a lease addendum must be completed, attached, and made a part of the Public Offering Statement.

7. Is purchaser or lessee to pay taxes, special assessments, or to make payments of any kind for the maintenance of common facilities in the subdivision (a) before taking title or signing of lease or (b) after taking title or signing of lease? If yes, complete the schedule below:

	Approximate amount of purchaser's or lessee's annual payments
Taxes _____	$_____
Special assessments _____	_____
Payments to property owners' association_____	_____
Other _____	_____
Specify _____	_____

8. (a) Will purchaser's downpayment and installment payments be placed in escrow or otherwise set aside? Yes or No? If yes, with whom? If not, will title be held in trust or in escrow?

(b) Except for those property reservations which land subdividers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being subdivided will purchaser receive a deed free of exceptions? Yes or No? If no, list all restrictions, easements, covenants, reservations and their effect upon buyer.

(c) List the permissible uses of the property based upon the restrictive covenants, and which are consistent with local zoning ordinances.

(d) List all existing or proposed unusual conditions relating to the location of the subdivision and to noise, safety or other nuisances which affect or might affect the subdivision.

9(a) List all recreational facilities currently available (e.g., swimming pools, golf courses, ski slopes, etc.). State who owns or will own the facility and any costs or assessments to the purchaser or lessee.

(b) If facilities are proposed or partly completed, state promised completion date, provisions to assure completion, and all estimated costs or assessments to purchaser or lessee. If there are no provisions to assure completion, so state.

Description of each facility	Percentage of completion	Estimated completion date

10. State whether or not the following are available in the subdivision:

(a) Roads:

1. Access to the subdivision: Paved _____, unpaved _____, percentage of completion _____, estimated completion date _____.

2. Road system within the subdivision: Paved _____, unpaved _____, percentage of completion _____, estimated completion date _____.

(b) Utilities:

1. Water.
2. Electricity.
3. Gas.
4. Telephone.
5. Sewage disposal.
6. Drainage and Flood Control.
7. Television.

(c) Municipal Services:

1. Fire protection.
2. Police protection.
3. Garbage and trash collection.
4. Public schools:

A. Elementary schools.

B. Junior high schools.

C. High school.

5. Medical and dental facilities:

A. Hospital facilities.

B. Physicians and dentists.

6. Public transportation.

7. U.S. Postal Service.

11. Will the water supply be adequate to serve the anticipated population of the area?

12. Is any drainage of surface water, or use of fill necessary to make lots suitable for construction of a one-story residential structure? Yes or No? If yes, state whether any provision has been made for drainage or fill and give estimate of any costs purchaser would incur.

13. State whether shopping facilities are available in the subdivision; if not, state the distance in miles to such facilities and whether public transportation is available.

14. Approximately how many homes were occupied as of _____ _____ (insert date of filing)?

15. (a) State elevation of the highest and lowest lots in the subdivision and briefly describe topography and physical characteristics of the property.

(b) State in inches the average annual rainfall and, if applicable, the average annual snowfall for the subdivision or the area in which it is located.

(c) State temperature ranges for summer and winter, including highs, lows and means.

16. Will any subsurface improvement, or special foundation work be necessary to construct one story residential or commercial structures on the land? Yes or No? If yes, state if any provision has been made and estimate any costs purchaser would incur.

17. State whether there is physical access (by conventional automobile) over legal rights-of-way to all lots and common facilities in the subdivision. State whether the access will be by public or private roads and streets and whether they will be maintained by public or private funds.

18. Has land in the subdivision been platted of record? Yes or No? If not, has it been surveyed? Yes or No? If not, state estimated cost to purchaser to obtain a survey.

19. Has each individual lot been staked or marked so that the purchaser can identify the boundary lines of his lot? If not, state estimated cost to purchaser or lessee to obtain a survey and to have boundary lines staked or marked.

20. State whether a comprehensive program is in effect to control soil erosion, sedimentation, and flooding throughout the entire subdivision? Yes or No. If yes, has the plan been approved by officials responsible for the regulation of land development? Yes or No.

21. Will the subdivider represent as a part of his sales program that the lot has investment potential? Yes or No. _____

If you as a prospective purchaser are considering the purchase of a lot as an investment for future resale you should consider the following potentially adverse factors.

(a) A significant percentage of the sales price may have been committed to promotional advertising and sales commission.

(b) Significant costs may be incurred in the resale of the lot.

(c) Your lot may have to be sold in direct competition with the subdivider's sales program.

(d) Substantial population growth within the subdivision cannot be assured.

(e) Promotional sales stimulus such as that used by the subdivider will not be available to you.

(f) No assurance can be given that a real estate broker will agree to list your lot or to show it to prospective purchasers. This is especially important if your lot is located in a remote subdivision.

22. State whether the subdivider offers a resale program for those purchasers who wish to resell their lot. Yes or No _____. State how the purchaser will resell his lot in the absence of such a program. List any factors which may limit or affect the purchaser's ability to resell his lot.

The purchaser's reference to financial statements and the signature lines should be added to the format, as follows:

PURCHASER SHOULD CAREFULLY REVIEW THE ATTACHED FINANCIAL STATEMENTS OF THE SUBDIVIDER (SEE EXHIBIT A).

Signatures of the Senior Executive Officer of the Sudivider:

_____ _____

(Title) (Date)

Minnesota addendum.

In addition to the information required above, Public Offering Statements authorized for use in the State of Minnesota shall include the following:

1. A statement whether the subdivider holds any options to purchase adjacent properties, and if so, a description of such options and the location and zoning of the adjacent properties.

2. A statement indicating whether there is as of the date of registration an existing market for resale of any properties sold pursuant to this offering.

3. The material terms of any encumbrances, easments, liens, and restrictions, including zoning and other regulations affecting the subdivided lands and each unit or lot, a statement of the subdivider's efforts to remove such lien or encumbrance, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands.

4. (a) PURCHASER SHOULD CAREFULLY REVIEW THE ATTACHED FINANCIAL STATEMENTS OF THE SUBDIVIDER (SEE EXHIBIT A).

(b) A financial statement of the subdivider as of the end of the subdivider's most recent fiscal year, audited by an independent certified

public accountant should be attached hereto as Exhibit A; and, if the fiscal year end of the subdivider is in excess of 90 days prior to the date of filing the application, a financial statement, which may be unaudited, as of a date within 90 days of the date of application should be attached to this as Exhibit B.

(c) All registration statements filed with the Commissioner shall include a manually signed and dated consent of the accountant to the use of his name and his report in the public offering statement.

5. ALL SIGNATURES REQUIRED BY THESE RULES MUST BE MANUAL SIGNATURES.

6. The name, principal address and telephone number of the subdivider and of its offices and agents in this state.

7. A statement asserting that the subdivision is in compliance with federal, state and local environmental quality standards. If the subdivision is not in compliance, a listing of the steps to be taken, if any, to insure compliance.

SDiv 1609 (M.S. 83.26 (a) Statement of the Subdivier. A statement of the subdivider shall be typwritten and submitted on 8½" x 14" white bonded paper. This statement shall state verbatim the questions in this section, with the appropriate answers underneath each question, or attached as an addendum. Such statement shall be in the following form:

File No. _____
Date Approved _____
Dated Denied _____
Examiner _____
Commissioner _____

STATEMENT OF THE SUBDIVIDER

M.S. 83.26, Subd. 2(b)

This form is to be prepared and filed pursuant to Minnesota Statutes 1973, Section 83.26 and mailed to:

State of Minnesota
Department of Commerce
Securities Division
5th Floor, Metro Square Bldg.
Saint Paul, Minnesota 55101

1. State the name of the subdivision.
2. State the name and address of the subdivider.
3. State the form, date of organization and jurisdiction of the organization filing this registration.
4. State the name and address of each of the organization's offices in this state.
5. State the names and addresses of each of the organization's agents in this state.

6. If the subdivision consists of land, attach a general description of the subdivided lands which shall include, but not be limited to, the following:
   a. The exact location of the property identifying the closest community and the distance thereto;
   b. A topographical description;
   c. The purpose for which sales are being made (i.e., residential, commercial, industrial, recreational or investment);
   d. The total number of lots, parcels, units or interests to be offered in this offering;
   e. Whether or not other units in this development have been sold during the past 12 months, and if so how many and where located.
7. If the subdivision is composed of units other than land, attach a general description of the units to be sold which shall include, but not be limited to, the following:
   a. Exact location of the units identifying the closest community and distance thereto;
   b. The purpose for which sales are being made (i.e., residential, commercial, industrial, recreational or investment);
   c. The total number of lots, parcels, units or interests to be offered in this offering:
   d. Identify exactly what is being offered;
   e. Whether or not any other units in this development have been sold during the past 12 months and if so, how many and where located.
8. Attach a title opinion of a licensed practicing attorney concerning the title to the subdivided lands which shall include all encumbrances, deed restrictions and covenants applicable thereto.
9. Attach copies of instruments which will be delivered to a purchaser to evidence his interest in subdivided lands and of the contracts or other agreements which the purchaser will be required to agree to or sign, together with the range of selling prices, rates or rentals at which it is proposed to dispose of the lots, units, parcels or interests in the subdivisions and the list of mandatory fees the purchaser may be required to pay for membership in groups, including but not limited to, home owners' associations, country clubs, golf courses and other community organizations.
10. A statement showing compliance with zoning and other governmental laws, ordinances and regulations affecting the use of the subdivided lands and adjacent properties.
11. A statement asserting that the subdivision is in compliance with federal, state and local environmental quality standards, if the subdivision is not in compliance, a listing of the steps to be taken, if any, to insure compliance.
12. State what permits are required to be obtained from federal, state and local agencies having jurisdiction over the development or

subdivision of the land to be subdivided. Indicate which permits have been obtained, which have been applied for and state whether any permit has been refused, including a statement of the reasons for the refusal and the effect such refusal will have on subsequent development of the subdivision.

13. The statement of existing provisions of access to the subdivision, the availability of sewage disposal facilities and other public utilities included but not limited to, water, electricity, gas and telephone facilities in the subdivision, proximity in miles of the subdivision to nearby municipalities, availability and scope of community fire and police protection, the location of primary and secondary schools; a statement of the improvements to be installed, including off-site and on-site community and recreational facilities, by whom they are to be installed, maintained and paid and an estimated schedule for completion.

14. Attach copies of all advertising to be used in the promotional planning for disposition.

15. A statement as to whether or not the lots have been permanently "staked", monuments erected or other commonly approved methods of survey physically designating the individual units and if not, what steps are to be taken to complete same.

16. Attach an irrevocable appointment of the Commissioner to receive service of any lawful process, any civil proceeding arising under this act against the subdivider, or his personal representative.

THE SUBDIVIDER CONSENTS TO PERMIT INSPECTION OF THE LOTS, PARCELS, UNITS OR INTERESTS TO BE OFFERED AND FURTHER TO PERMIT INSPECTION OF ITS BOOKS, RECORDS, ACCOUNTS AND FILES BY THE COMMISSIONER OF SECURITIES OR HIS DESIGNEE WITH REFERENCE TO THE SALE OF THE SUBDIVIDED LANDS DESCRIBED HEREIN, AND AGREES TO PROVIDE THE COMMISSIONER WITH SUCH ADDITIONAL INFORMATON WITH RESPECT TO THE SALE OF THESE SUBDIVIDED LANDS AS HE MAY REQUIRE.

The undersigned certifies that he has read the contents of the above form and the exhibits appended hereto and certifies that he has personal knowledge of the contents hereof and knows the responses set forth are true and accurate.

Dated this _____ day of _____ _____
SUBDIVIDER

BY ITS _____

Subscribed and sworn to before me
this _____ day of _____

_____

A $10.00 fee must be filed with this Application. Make check payable to Treasurer, State of Minnesota.

SDiv 1610 (M.S. 83.29) (a) Fraudulent, Deceptive, Misleading or Unfair and Inequitable Acts. The methods, acts and practices contained herein or similar thereto shall be presumed fraudulent, deceptive, misleading or unfair and inequitable if engaged in by the subdivider or his agent and shall constitute grounds for denial, suspension or revocation of the registration, and for denial, suspension or revocation of the license of the subdivider or his agent.

(1) **Approvals and Memberships.**

(aa) Representing that the subdivider, his agents, servants, employees, or others acting on his behalf, have sponsorship, approval or certification they do not have.

(bb) Representing that land has been inspected by the Commissioner and/or received approval.

(cc) Representing the necessity, desirability, or the advantage of dealing with a subdivider, such as false or alleged connection with or endorsement by the government, nationally known organization, or membership in a professional association.

(2) **Availability of Land and Utilities.**

(aa) Representing the availability of land without clearly and conspicuously disclosing in immediate conjunction therewith any limitation on location, including location in relationship to amenities, and quantity.

(bb) Representing or giving the impression that a prospective purchaser has to act quickly to purchase specific or choice lots, units, parcels or interests in land because of purported scarcity of such land or reasons similar thereto.

(cc) Representing a utility service as "available" or a similar representation, unless such utility service is installed and ready for use, or use is assured under financial arrangements made for installation and approved by the Commissioner, and such arrangements are disclosed.

(3) **Access to subdivisions.**

(aa) Representing or suggesting that a subdivision is restricted to owners, purchasers or their families by means of guards or private roads or facilities unless it is true.

(bb) Representing that a prospective purchaser must pay a refundable or nonrefundable temporary membership fee in order to visit, tour, or inspect a subdivision for the reasons that such is restricted to members only when in fact such offer is made systematically and on a regular basis to all persons solicited for purchase.

(4) **Visits and free goods and services.**

(aa) Failing to reveal in an offer to induce a person to visit, inspect, or tour a subdivision all terms, conditions or prerequisites that must be met by any person.

(bb) Offering or representing that goods or services are "free" without clearly or conspicuously disclosing in immediate conjunction with the offer or representation all terms, conditions, or prerequisites to the receipt, retention, or use of the goods or services.

(5) Price, value and credit.

(aa) Representing or implying that a prospective purchaser has to act quickly to purchase land at a savings by reason of an imminent price increase, unless the increase is valid and a copy of the proposed new price schedule and the date of the price increase is furnished to the prospective purchaser.

(bb) Representing the price of land has been discounted or reduced unless in fact the original price was the customary price for a reasonable period of time.

(cc) Representing or suggesting that the price of land is less when compared to other land sold by competitors unless such other land has the same characteristics, attributes and qualities of the offered or advertised land and such prices are not fictitious.

(dd) Proposed rule withdrawn. Reserved for future use.

(ee) Representing or suggesting that credit is readily available when in fact it is not.

(ff) Representing or suggesting that the terms of such credit are liberal or lienient when in fact they are not.

(6) Repurchases, refunds, consideration for referrals.

(aa) Representing that the subdivider will buy back, resell, list or otherwise dispose of purchased property unless the terms are set forth in the contract, purchase agreement, or other similar instrument, and the Commissioner has been furnished a copy of the buyback or resale agreement.

(bb) Inducing a person to buy land, execute a contract, agreement, option for consideration, or other evidence of indebtedness for the purchase of land upon the representation to the person that a refund will be made if not satisfied, unless such representation is set forth in the contract, purchase agreement or other similar instruments.

(7) Promotion schemes, documents.

(aa) Representing that a subdivider, salesman, agent, servant, employee, or other persons acting on behalf of a subdivider is conducting a survey, contest, poll, or other similar inquiry, when such representation is a systematic marketing approach to sell property.

(bb) Representing to a person that they have been specially selected.

(cc) Obtaining the execution of a contract or similar instrument by representing it is only a reservation, receipt, temporary membership certificate, or other non-binding agreement.

(dd) Failing to clearly and conspicuously inform a purchaser that a contract, promissory note, evidence of indebtedness, or other similar instrument is assignable.

(8) Documents.

(aa) It shall be presumed to be unfair for a person to use a contract, agreement, deed, option, or other evidence of disposition of lands under the act which contain provisions whereby a purchaser or prospec-

tive purchaser agrees, without his knowing, intelligent and voluntary consent thereto:

(i) To waive a right or privilege afforded by the act; the Interstate Land Sales Full Disclosure Act (82 Stat. 590; 15 USC 1701 et seq.); and the Consumer Credit Protection Act commonly known as the Federal Truth-in-Lending Act, and any rules or regulations promulgated thereunder, or any laws governing the transaction.

(ii) To assume all risk of loss to the property without title passing to the purchaser or actual possession being in the purchaser.

(iii) To a subsequent sale of the optioned or purchased property.

(iv) To waive as against an assignee of the subdivider, a mortgagee, or subsequent holder, a claim or defense arising out of the transaction that the purchaser would have against the subdivider.

(v) To lose possession of the property without notice of and a prior hearing in a court of competent jurisdiction.

(vi) To waive a right to redeem the property after default.

(vii) That an assignee, mortgagee or subsequent holder of the subdivider is not obligated to convey title as to the purchaser.

(bb) It is unfair for a subdivider, his agents, servants, employees, or others acting on his behalf:

(i) To offer to or induce a purchaser to execute a document, paper, or other instrument without all spaces filled in or inapplicable spaces clearly stricken.

(ii) To alter or deface a document, paper, or other instrument without the consent of the parties thereto.

(9) **General.**

(aa) It is unfair for a person to use a method of rebate of interest, or finance charge which requires or results in a purchaser paying a greater amount of interest or finance charge upon pre-payment than he would have paid if he had financed for that shorter period up to the time of pre-payment.

(bb) It is unfair for a subdivider, his agents, servants, employees, or others acting on his behalf:

(i) To make a promise with no present intent to perform it.

(ii) To fail to reveal to a purchaser or prospective purchaser all terms, conditions, notices, and amounts of any contract, agreement, option, deed, property report, evidence of indebtedness, or other similar instrument.

(iii) To substitute another lot, unit, parcel, or interest in land for that purchased or optioned without the consent of the purchaser.

(cc) It is unfair for a subdivider to fail to afford to a purchaser all rights, privileges, or advantages that are represented or implied as being available to a purchaser as the result of the purchase.

(10) **Miscellaneous.**

(aa) Representing the necessity, desirability, or advantage to a prospective purchaser of dealing with a subdivider such as representing a subdivider's alleged advantages of size.

(bb) Offering or representing to sell or lease lots, units, parcels, or interests in land which in truth the subdivider does not intend or desire to sell or lease.

(cc) Engaging in activities commonly referred to as "bait and switch" activities.

(dd) Failing to clearly and conspicuously disclose the use, if any, to which surrounding land has been put where the disclosure is material.

(ee) The making of false, misleading or irrelevant comparisons of land values.

(ff) Engaging in any other method, act or practice which has or may have the tendency to deceive.

SDiv 1611 (M.S. 83.30) (a) **Annual Report.** An annual report shall be typewritten and submitted on 8½" x 14" white bonded paper. Such report shall be prepared in the exact form as follows:

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE, SECURITIES DIVISION

5th Floor Metro Square Bldg.

ANNUAL REPORT — SUBDIVIDED LAND

THIS REPORT MUST BE FILED NOT LATER THAN 30 DAYS AFTER THE ANNIVERSARY DATE OF REGISTRATION.

1. Name of subdivider_____
2. Business Address _____
3. Name of Subdivision_____
4. Description of Units_____
5. Number of Units Registered_____
6. Date of Registration_____
7. Registration Number _____
8. Please check one of the following boxes:

   A. ☐

   Continued registration is desired.

   B. ☐

   Cancellation of registration is desired.
9. State the aggregate number of units sold pursuant to the above described registration or any amendment thereof to residents of the state of Minnesota_____
10. State the aggregate number of units outstanding at the date of the last annual report filed with the Securities Division, Department of Commerce, State of Minnesota.
11. Specify by date of transaction, number of units, and aggregate dollar amount, all sales of any subdivided land by the subdivider or his agent to Minnesota residents since the date of the last annual report filed with the Securities Division, Department of Commerce, State of Minnesota.
12. Specify any exemption from registration claimed for any sale described in 11 above.

13. State the aggregate number of units outstanding at the date of this report.

14. Attach the following exhibits.

A. (1) A list of the issuer's officers, directors, and direct or beneficial owners of 10% or more of any class of equity security or security convertible into equity securities.

(2) A general description of the business of the issuer; a list of its wholly or majority owned subsidiaries, specifying their businesses; and a list of officers and directors of each subsidiary.

(3) Financial statements consisting of a balance sheet certified by an independent Certified Public Accountant for the subdivider's last fiscal year end and an income statement similarly certified for the 12 months next preceding the date of the balance sheet; **and** a balance sheet dated within 90 days of the date of filing this annual report together with an income statement for the period from the subdivider's fiscal year end to the date of said balance sheet.

Signed _____

By: _____

its _____

APPLICANT'S VERIFICATION

STATE OF _____ }
} SS.
COUNTY OF _____ }

On this _____ day of _____, 19__, _____

_____, appeared before me, a Notary Public, and being first duly sworn, says that it is the applicant; that it has read the foregoing application and accompanying exhibits, and that the contents thereof are true of its own knowledge.

_____

(NOTARIAL SEAL) Notary Public, _____ County _____

My Commission Expires _____

INDIVIDUAL VERIFICATION

STATE OF _____ }
} SS.
COUNTY OF _____ }

On this _____ day of _____, 19__, _____

_____, appeared before me, a Notary Public, and being first duly sworn, says that he is the _____ of _____ and that he is duly authorized and empowered to execute this application on its behalf.

_____

(NOTARIAL SEAL) Notary Public, _____ County _____

My Commission Expires _____

SDiv 1612 (M.S. 83.33) (a) **Blanket Encumbrances.** The subdivider shall not sell lots, units, parcels or interests within a subdivision subject to a blanket encumbrance unless one or more of the following conditions are met:

(1) All sums paid or advanced by purchasers are placed in an escrow or other depository acceptable to the Commissioner until: (a) the fee title contracted for is delivered to the purchaser by deed together with complete release from all financial encumbrances; or (b) the subdivider or the purchaser default and fail to perform under their contract of disposition and there is a final determination by a court of competent jurisdiction or the Commissioner as to the disbursal of such moneys; or (c) the funds are voluntarily returned to the contract purchaser.

(2) The fee title to the subdivision is placed in trust under an agreement or trust acceptable to the Commissioner until a proper release from each blanket encumbrance including all taxes is obtained and title contracted for is delivered to such purchaser.

(3) A bond, cash, certified check or irrevocable bank letter of credit issued by a bank authorized to do business in this state is furnished to the Commissioner in the name of the state for the benefit and protection of purchasers of the lots, units, parcels or interest, in such amount and subject to terms as approved by the Commissioner. The bond shall be executed by a surety company authorized to do business in this state and which has given consent to be sued in this state. The bond or agreement accompanying the cash, certified check or irrevocable bank letter of credit shall provide for the return of moneys paid or advanced by any purchaser, on account of purchase of any lot, unit, parcel or interest if the title contracted for is not delivered and a full release from each blanket encumbrance is not obtained. If it is determined that the purchaser by reason of default or otherwise, is not entitled to the return of the moneys, or any portion thereof, then the bond, cash, certified check or irrevocable letter of credit may be released by the Commissioner in the amount of moneys to which the purchaser of a lot, unit, parcel or interest is not entitled.

(4) The blanket encumbrance shall contain a provision evidencing the subordination of the rights of the subdivider to the rights of those persons purchasing from the subdivider and further evidencing that the subdivider is able to secure releases from the blanket encumbrance with respect to the property.

(5) An alternative plan acceptable to the Commissioner.

SDiv 1613 (M.S. 83.38) (a) **Operating Procedures.**

(1) **Soil Preparation.** In a subdivision proposed to be sold with structural improvements where the soil condition is such as to require preparation in some manner that structural damage is not likely to result, the Commissioner will not approve an application until the subdivider has submitted a certification from a civil engineer that the soil has been properly prepared, unless one or more of the following plans have been met:

(aa) furnish a bond or bonds in an amount and subject to such terms, conditions and coverage as the Commissioner may approve;

(bb) impoundment of purchasers funds in an escrow acceptable to the Commissioner, until such time as written evidence of adequate soil preparation has been submitted to and approved by the Commissioner;

(cc) deposit in an escrow acceptable to the Commissioner of a sum sufficient to adequately prepare the soil with underwritten agreements providing for progress payments as the work is completed;

(dd) an alternative plan acceptable to the Commissioner.

(2) **Owners Association.** In subdivisions which involve a planned development or similar arrangement, the covenants, conditions and restrictions, articles of incorporation, bylaws and other instruments for the management, regulation and control of these types of subdivisions shall ordinarily provide, but need not be limited to:

(aa) creation of an association of lot, parcel, unit or undivided interest owners;

(bb) a description of the areas or interests to be owned or controlled by owners in common;

(cc) transfer of title and/or control of common areas, common facilities and/or mutual and reciprocal rights of use to the owners in common or to an association thereof;

(dd) procedures for calculating and collecting regular assessments to defray expenses attributable to the ownership, use and operation of common areas and facilities with said assessments to be levied against each owner, including the subdivider, according to the ratio of the number of lots or units owned by each owner to the total of lots or units subject to the assessment, or on some other reasonable and equitable basis such as the selling price of the unit to the aggregate selling prices of all units subject to the assessment;

(ee) procedures for establishing and collecting special assessments for capital improvements or other purposes on the same basis as for regular assessments with suitable monetary limitations on special assessments or expenditures without the prior approval of a majority of the owners affected;

(ff) where appropriate, liens against privately owned subdivision properties and the foreclosure thereof on account of the nonpayment of assessments duly levied;

(gg) where appropriate, annexation of additional land to the existing development with suitable substantive and procedural safeguards against increased per capital assessments on account of such annexation;

(hh) monetary penalties and/or use privilege and voting suspensions of members for breaches of the restrictions, bylaws or other instruments for management and control of the subdivision with procedures for hearings for disciplined members;

(ii) creation of a board of directors or other governing body for the owners' association with the members of said body to be elected by a vote of members of the association at an annual or special meeting to be held not later than six months after the sale of the first lot, unit or undivided interest of the subdivision;

(jj) procedures for the election and removal of members of the governing body which shall include concurrent terms for members and cumulative voting features in the election and removal of such members;

(kk) enumeration of the powers of the governing body which shall normally include at least the following:

(i) the enforcement of applicable provisions of the restrictions, bylaws, and the other instruments for the management and control of the subdivision;

(ii) payment of taxes and assessments which are or could become a lien on the common area or some portion thereof;

(iii) delegation of its powers to committee, officers or employees;

(iv) contracting for materials and/or services for the common area or the owners' association with the term of any service contract limited to a duration of one year, except with the approval of a majority of the members of the owners' association, except in those subdivisions where the terms of the management contract have been approved by the Federal Housing Administration or Veterans Administration;

(v) contracting for fire, casualty, liability and other insurance on behalf of the owners' association;

(vi) entry upon any privately owned lot or unit where necessary in connection with construction, maintenance or repair for the benefit of the common area or the owners in common;

(ll) allocation of voting rights to members of the owners' association on the basis of lot or unit ownership or on some other reasonable and equitable basis;

(mm) preparation of an annual operating statement reflecting income and expenditures of the assocation for its fiscal year with provision for distribution of a copy of said report to each member within 90 days after the end of the fiscal year;

(nn) annual and special meetings of members within the subdivision or as close thereto as practicable;

(oo) reasonable — and in no case less than 10 days — written notice to members of annual and special meetings specifying the place, day and hour, and in the case of special meetings, the nature of the business to be undertaken;

(pp) quorum requirements for members' meetings ranging from 25% to 50% of the total membership depending upon the nature of the subdivision and other relevant factors;

(qq) voting proxies for members' meetings;

(rr) amendment of those provisions of the restrictions, bylaws or rules which relate to the management, operation and control of the owners' association and/or the common areas, common facilities or interests.

Depending upon the nature of the right or obligation to be affected by the amendment, the Commissioner will ordinarily consider as reasonable amendments enacted as follows:

(i) Restrictions—51% of all of the owners;

(ii) Bylaws or Rules — 51% of all of the owners;

(ss) prohibition or restrictions upon the severability of commonly owned interests through partition or otherwise;

(tt) action to be taken and procedures to be followed in the event of destruction or extensive damage to the common areas or facilities including provisions respecting the use and disposition of insurance proceeds payable to the association on account of such destruction or damage.

(3) **General Policies.** Unless unusual and compelling considerations are presented, the Commissioner will ordinarily be guided by the following general policies, and will not consider as reasonable:

(aa) provisions which deny, limit or abridge, directly or indirectly, the right of any owner to sell, lease or rent his unit in a condominium, community apartment project, planned development, or stock cooperative; except that a reasonable plan may be utilized which sets forth uniform and objective standards and qualifications for the sale or lease. Should the unit owner be unable to find a purchaser or lessee meeting such uniform and objective standards, he may be required to give the governing body an option to purchase or lease said unit before selling or leasing to a person who does not meet such standards provided, however, that any such provisions providing for a right to repurchase by the governing body must be exercised within 15 days of receipt of written notice from the unit owner to the subdivider, governing body or authorized representative thereof;

(bb) provisions pursuant to which the failure by an owner to comply with any requirements, conditions or covenants contained in any declaration of restrictions, organizational rules or bylaws results in forfeiture, loss, limitation or abridgement of his rights in a condominium, community apartment project, planned development, or stock cooperative, or of his membership and participation in a management or owners organization. The foregoing does not preclude reasonable management rules authorizing discipline or temporary suspension of a member's rights, wherein appropriate procedures are afforded, including an opportunity to be heard; nor does it preclude foreclosure of an assessment lien;

(cc) provisions authorizing annexation of other property to the subdivision, which may substantially increase assessments or substantially increase the burden upon community property and/or facilities, unless:

(i) the procedure for annexation is reasonable and is detailed in the original filing; or

(ii) if the procedure for annexation is not detailed, provision is made for approval of the annexation by at least a majority of the voting power, excluding voting power of the subdivider;

(dd) provisions authorizing lien assessments unless reasonable provision for transfer of control of the assessment power to unit owners or association of unit owners is also provided;

(ee) provisions authorizing establishment of an architectural control committee or a similar entity, unless they provide that unit owners shall have the right to elect the committee membership when 90% or more of the units have been sold. The foregoing does not preclude reasonable arrangements approved by the Commissioner for retention of control over such committee by the subdivider, in event other increments are to be added or annexed to said subdivision;

(ff) any other provisions which arbitrarily deny, limit or abridge the right of unit owners with respect to the management, maintenance, preservation, operation, or control of their interests.

(4) **Conveyance of Property.** In undivided interests subdivisions which do not involve a right of exclusive occupancy or use of a lot, parcel or unit, provision shall ordinarily be made in the public offering statement whereby owners and their successors in interest, absolutely waive the right to partition to real property in kind and waive the right to seek partition for the purpose of a sale of the real property, or any portion of it, unless the bringing of a suit for partition has been approved by the vote or written agreement of a majority of the ownership interests in the subdivision that are not owned or controlled by the subdivider.

SDiv 1614 (M.S. 83.38) (a) **Recordable Instruments.** An instrument evidencing sale or disposition of an interest in a subdivision shall be executed in a recordable form in accordance with the laws of the state where the land is located. The subdivider or applicant has the burden of showing compliance with this provision.

SDiv 1615 (M.S. 83.38) (a) **Apportionment of Taxes.**

(1) Subdivider's duties.

(aa) In a transaction for the sale of land under the act in which taxes are to be paid by either party, a subdivider shall:

(i) Certify that there are no taxes, other than current taxes, owing on the property involved at the date of filing the statement of record, a consolidated statement of record, or an amendment to either; and

(ii) Provide a form of escrow satisfactory to the Commissioner in accord with paragraph (2) below if part of the purchasers' funds paid in or payable by the terms of the instruments disposing of the land are to be used for payment of taxes.

(bb) In order that a purchaser will receive the interest in lands contracted for, a subdivider shall place in an escrow satisfactory to the Commissioner sufficient funds to pay reasonably anticipated tax bills on the property of a subdivision. If the subdivider apportions real property taxes and requires a purchaser to pay such taxes in a lump sum or on a periodic basis, the subdivider shall place in the escrow 100% of the sum due.

(2) Responsibilities not to be imposed on the purchaser.

(aa) A purchaser is not responsible for payment of taxes or assessments levied before the effective date of his agreement with a subdivider or his agent, and the instruments evidencing the sale or disposition of an intrest in a land shall so state.

(bb) A purchaser shall not be assessed a service fee or be required to pay a consideration for the assessment or allocation of taxes on the land involved in the transaction.

Filed March 4, 1974

UNIFORM CONVEYANCING BLANKS

Form

101. Order to Complete Settlement of Estate and Decree of Distribution.

102. Order of Complete Settlement of Estate and Order of Distribution.

103. Decree of Descent.

104. Decree of Descent (Omitted Property).

105. Final Decree Summary Assignment or Distribution.

106. Bona Fide Purchaser Declaration and Affidavit of No Self-Dealing.

107. Personal Representative's Deed of Distribution—Individual Representative.

108. Personal Representative's Deed of Distribution—Corporate Representative.

109. Personal Representative's Deed—Individual Representative to Individual.

110. Personal Representative's Deed—Individual Representative to Corporation or Partnership.

111. Personal Representative's Deed—Individual Representative to Joint Tenants.

112. Personal Representative's Deed—Corporate Representative to Individual.

113. Personal Representative's Deed—Corporate Representative to Corporation or Partnership.

114. Personal Representative's Deed—Corporate Personal Representative to Joint Tenants.

115. Affidavit Regarding Purchaser(s) (Individual).

116. Affidavit Regarding Seller(s) (Individual).

117. Affidavit Regarding Corporation.

118. Affidavit Regarding Partnership.

1-M. Warranty Deed—Individual(s) to Individual(s).

2-M. Warranty Deed, Except Assessments—Individual(s) to Individual(s).

3-M. Warranty Deed—Individual(s) to Corporation or Partnership.

4-M. Warranty Deed, Except Assessments—Individual(s) to Corporation or Partnership.

Form

5-M. Warranty Deed—Individual(s) to Joint Tenants.

6-M. Warranty Deed, Except Assessments—Individual(s) to Joint Tenants.

7-M. Warranty Deed—Corporation or Partnership to Individual(s).

8-M. Warranty Deed, Except Assessments—Corporation or Partnership to Individual(s).

9-M. Warranty Deed—Corporation or Partnership to Corporation or Partnership.

10-M. Warranty Deed, Except Assessments—Corporation or Partnership to Corporation or Partnership.

11-M. Warranty Deed—Corporation or Partnership to Joint Tenants.

12-M. Warranty Deed, Except Assessments—Corporation or Partnership to Joint Tenants.

27-M. Quit Claim Deed—Individual(s) to Individual(s).

28-M. Quit Claim Deed—Individual(s) to Corporation or Partnership.

29-M. Quit Claim Deed—Individual(s) to Joint Tenants.

30-M. Quit Claim Deed—Corporation or Partnership to Individual(s).

31-M. Quit Claim Deed—Corporation on Partnership to Corporation or Partnership.

32-M. Quit Claim Deed—Corporation or Partnership to Joint Tenants.

Editorial Comment. Pursuant to the authority granted in section 507.09, the commissioner of securities adopted replacement blanks for the forms numbered as 35 to 40 and 88-90 (see main volume). These blanks are numbered as forms 101 to 114. The approval of the Attorney General was filed on August 14, 1978.

Pursuant to the rule making authority granted in section 507.09, the Commissioner of Securities adopted replacement conveyancing blanks and new affidavit blanks contained in new forms 115, 116, 117, 118 and 1-M to 12-M and 27-M to 32-M. The approval of the Attorney General was filed October 29, 1980.

Form 101 Minn. Stat. § 524.3-1001 # 7
524.3-1002 # 6

Minnesota Uniform Conveyancing Blanks (1978)

STATE OF MINNESOTA PROBATE COURT
COUNTY COURT–PROBATE DIVISION
COUNTY OF _____ Court File No. _____

In Re: Estate of

ORDER OF COMPLETE SETTLEMENT OF THE ESTATE AND DECREE OF DISTRIBUTION

_____
Deceased

The petition of _____, dated _____, 19___, for an order of complete settlement of the estate and decree of distribution in the estate of the above named decedent having duly come on for hearing before the above name Court on _____, 19____, the undersigned Judge having heard and considered such petition, being fully advised in the premises, makes the following findings and determinations:

1. That the petition for order of complete settlement of the estate and decree of distribution is complete.

2. That the time for any notice has expired and any notice as required by the laws of this State has been given and proved.

3. That the petitioner(s) (has) (have) declared or affirmed that the representations contained in the petition are true, correct and complete to the best knowledge or information of petitioner(s).

4. That the petitioner(s) appear(s) from the petition to be (an) interested person(s) as defined by the laws of this State.

5. That the decedent died___testate at the age of_____years on _____, 19___, at _____.

6. That venue for this proceeding is in the above named County of the State of Minnesota, because the decedent was domiciled in such County at the time of death, and was the owner of property located in the State of Minnesota, or because, though not domiciled in the State of Minnesota, the decedent was the owner of property located in the above named County at the time of death.

7. That this Court has jurisdiction of this estate, proceeding and subject matter.

8. That the said estate has been in all respects fully administered, and all expenses, debts, valid charges and all claims allowed against said estate have been paid.

9. That a final account has been filed herein by the personal representative(s) for consideration and approval.

10. That decedent's last will duly executed on _____, 19___, and codicil or codicils thereto duly executed on _____, 19___, (was) (were) probated by the order of this Court dated _____, 19___, or (is) (are) formally probated by this order, and should be construed to provide that under the provisions thereof, the estate of decedent is devised as follows:

(State actual legal relationship of each devisee to decedent)

11. That the following named persons are all the heirs of the decedent and their actual relationship to decedent is as stated (If decedent died testate, do not list heirs unless all heirs are ascertained):

12. That the property of the decedent on hand for distribution consists of the following:

(A) Personal property of the value of $_____described as follows:

(B) Real property described as follows:

(1) The homestead of the decedent situated in the County of_____ _____, State of Minnesota, described as follows:

(2) Other real property situated in the County of_____ _____, State of Minnesota, described as follows:

13. That the inheritance taxes on the herein described property have been paid or waived.

14. That any previous order determining testacy should be confirmed as it affects any previously omitted or un-notified persons and other interested persons.

NOW, THEREFORE, it is ORDERED, ADJUDGED, and DECREED by the Court as follows:

1. That the petition is hereby granted.

2. That the final account of the personal representative(s) herein is approved.

3. That decedent's last will duly executed on _____, 19___, and codicil or codicils thereto duly executed on _____, 19___, (is) (are) (hereby) (has or have been) formally probated and (is) (are) construed as above stated.

4. That the heirs of the decedent are determined to be as set forth above.

5. That the property of the decedent on hand for distribution is as above stated.

6. That the personal representative(s) herein (is) (are) directed to transfer title to the personal property described herein, and to convey title to the real property described herein by Personal Representative's Deed of Distribution, subject to any lawful disposition heretofore made, to the following named persons in the following proportions or parts:

7. That the lien of inheritance taxes, if any, on the above described property is hereby waived.

8. That any previous order determining testacy is hereby confirmed as it affects any previously omitted or unnotified persons and other interested persons.

Dated: _____ _____

Judge

(COURT SEAL)

FILED:

Form 102 Minn. Stat. § 524.3-1001 # 8
524.3-1002 # 7

STATE OF MINNESOTA PROBATE COURT
COUNTY COURT–PROBATE DIVISION
COUNTY OF_____ Court File No. _____

In Re: Estate of

ORDER OF COMPLETE SETTLEMENT OF THE ESTATE AND ORDER OF DISTRIBUTION

_____
Deceased

The petition of _____, dated _____, 19___, for an order of complete settlement of the estate and order of distribution in the estate of the above named decedent having duly come on for hearing before the above named Court on _____, 19___, the undersigned Judge having heard and considered such petition, being fully advised in the premises, makes the following findings and determinations:

1. That the petition for order of complete settlement of the estate and order of distribution is complete.

2. That the time for any notice has expired and any notice as required by the laws of this State has been given and proved.

3. That the petitioner(s) (has) (have) declared or affirmed that the representations contained in the petition are true, correct and complete to the best knowledge or information of petitioner(s).

4. That the petitioner(s) appear(s) from the petition to be (an) interested person(s) as defined by the laws of this State.

5. That the decedent died___testate at the age of_____years on_____, 19___, at _____.

6. That venue for this proceeding is in the above named County of the State of Minnesota, because the decedent was domiciled in such County at the time of death, and was the owner of property located in the State of Minnesota, or because, though not domiciled in the State of Minnesota, the decedent was the owner of property located in the above named County at the time of death.

7. That this Court has jurisdiction of this estate, proceeding and subject matter.

8. That the said estate has been in all respects fully administered, and all expenses, debts, valid charges and all claims allowed against said estate have been paid.

9. That a final account has been filed herein by the personal representative(s) for consideration and approval.

10. That decedent's last will duly executed on _____, 19__, and codicil or codicils thereto duly executed on _____, 19__, (was) (were) probated by the order of this Court dated _____, 19__, or (is) (are) formally probated by this order, and should be construed to provide that under the provisions thereof, the estate of decedent is devised as follows:

(State actual legal relationship of each devisee to decedent)

11. That the following named persons are all the heirs of the decedent and their actual relationship to decedent is as stated (If decedent died testate, do not list heirs unless all heirs are ascertained):

12. That the property of the decedent on hand for distribution consists of the following:

(A) Personal property of the value of $_____ described as follows:

(B) Real property described as follows:

(1) The homestead of the decedent situated in the County of _____ _____, State of Minnesota, described as follows:

(2) Other real property situated in the County of _____ _____, State of Minnesota, described as follows:

13. That the inheritance taxes on the herein described property have been paid or waived.

14. That any previous order determining testacy should be confirmed as it affects any previously omitted or un-notified persons and other interested persons.

NOW, THEREFORE, it is ORDERED, ADJUDGED, and DECREED by the Court as follows:

1. That the petition is hereby granted.

2. That the final account of the personal representative(s) herein is approved.

3. That decedent's last will duly executed on _____, 19__, and codicil or codicils thereto duly executed on _____, 19__, (is) (are) (hereby) (has or have been) formally probated and (is) (are) construed as above stated.

4. That the heirs of the decedent are determined to be as set forth above.

5. That the property of the decedent on hand for distribution is as above stated.

6. That title to the personal and real property described herein, subject to any lawful disposition heretofore made, is hereby assigned to and vested in the following named persons in the following proportions or parts:

7. That the lien of inheritance taxes, if any, on the above described property is hereby waived.

8. That any previous order determining testacy is hereby confirmed as it affects any previously omitted or unnotified persons and other interested persons.

Dated: _____ _____

Judge

(COURT SEAL)

FILED:

Form 103 Minn. Stat. § 525.312 #8

Minnesota Uniform Conveyancing Blanks (1978)

STATE OF MINNESOTA PROBATE COURT
COUNTY COURT–PROBATE DIVISION
COUNTY OF_____ Court File No._____

In Re: Estate of

_____ DECREE OF DESCENT
(Testate) (Intestate)
Deceased

The petition of_____, dated_____, 19___, for determination of descent in the estate of the above named decedent having duly come on for hearing before the above named Court on_____, 19___, the undersigned Judge having heard and considered such petition, being fully advised in the premises, makes the following findings and determinations:

1. That the petition for determination of descent is complete.

2. That the time for any notice has expired and any notice as required by the laws of this State has been given and proved.

3. That the petitioner(s) (has) (have) declared or affirmed that the representations contained in the petition are true, correct and complete to the best knowledge or information of petitioner(s).

4. That the petitioner(s) appear(s) from the petition to be (an) interested person(s) as defined by the laws of this State.

5. That the decedent died___testate at the age of_____years on_____, 19___, at_____
and that more than three years have elapsed since the death of said decedent and it appears from the petition that the time limit for original appointment proceedings has expired.

6. That venue for this proceeding is in the above named County of the State of Minnesota, because the decedent was domiciled in such County at the time of death, and was the owner of property located in the State of Minnesota, or because, though not domiciled in the State of Minnesota, the decedent was the owner of property located in the above named County at the time of death.

7. That this Court has jurisdiction of this estate, proceeding and subject matter.

8. That no will or authenticated copy of a will of the decedent probated outside of this State in accordance with the laws in force in the place where probated has been probated nor administration had in this State.

9. That the petition does not indicate the existence of a possible unrevoked testamentary instrument which may relate to property subject to the laws of this State, and which is not filed for probate in this Court.

10. That decedent's last will duly executed on _____, 19__, and codicil or codicils thereto duly executed on _____, 19__, (is) (are) formally probated by this order, and should be construed to provide that under the provisions thereof, the estate of decedent is devised as follows:
(State actual legal relationship of each devisee to decedent)

11. That the following named persons are all the heirs of the decedent and their actual relationship to decedent is as stated (If decedent died testate, do not list heirs unless all heirs are ascertained):

12. That the property of the decedent on hand for distribution consists of the following:

(A) Personal property of the value of $_____described as follows:

(B) Real property described as follows:

(1) The homestead of the decedent situated in the County of _____ _____, State of Minnesota, described as follows:

(2) Other real property situated in the County of_____ _____, State of Minnesota, described as follows:

13. That the devisee(s) or (his) (her) (their) successors and assigns possess(es) the property devised in accordance with the will and codicil or codicils; any heir(s) or (his) (her) (their) successors and assigns possess(es) the property which passes to such heir(s) under the laws of intestate succession in force at the decedent's death; or such property was not possessed or claimed by anyone by virtue of the decedent's title during the time period for testacy proceedings.

14. That the inheritance taxes on the herein described property have been paid or waived.

NOW, THEREFORE, it is ORDERED, ADJUDGED and DECREED by the Court as follows:

1. That the petition is hereby granted.

2. That decedent's last will duly executed on _____, 19___, and codicil or codicils thereto duly executed on _____, 19___, (is) (are) hereby formally probated and construed as above stated.

3. That the heirs of the decedent are determined to be as set forth above.

4. That the property of the decedent on hand for distribution is as above stated.

5. That title to the personal and real property described herein, subject to any lawful disposition heretofore made, is hereby assigned to and vested in the following named persons in the following proportions or parts:

6. That the lien of inheritance taxes, if any, on the above described property is hereby waived.

Dated: _____ _____

Judge

(COURT SEAL)

FILED:

Form 104 Minn. Stat. § 524.3-413 #6

Minnesota Uniform Conveyancing Blanks (1978)

STATE OF MINNESOTA PROBATE COURT
COUNTY COURT–PROBATE DIVISION
COUNTY OF_____ Court File No. _____

In Re: Estate of

_____ DECREE OF DESCENT
(Omitted property)
Deceased (Incorrectly described property)

The petition of_____, dated_____, 19___, for decree of descent (omitted property) (incorrectly described property) in the estate of the above named decedent having duly come on for hearing before the above named Court on_____, 19_____, the undersigned Judge having heard and considered such petition, being fully advised in the premises, makes the following findings and determinations:

1. That the petition for decree of descent (omitted property) (incorrectly described property) is complete.

2. That the time for any notice has expired and any notice as required by the laws of this State has been given and proved.

3. That the petitioner(s) (has) (have) declared or affirmed that the representations contained in the petition are true, correct and complete to the best knowledge or information of petitioner(s).

4. That the petitioner(s) appear(s) from the petition to be (an) interested person(s) as defined by the laws of this State.

5. That the decedent died____testate at the age of_____years on_____, 19___, at_____.

6. That venue for this proceeding is in the above named County of the State of Minnesota, because the decedent was domiciled in such County at the time of death, and was the owner of property located in the State of Minnesota, or because, though not domiciled in the State of Minnesota, the decedent was the owner of property located in the above named County at the time of death.

7. That this Court has jurisdiction of this estate, proceeding and subject matter.

8. That no will or authenticated copy of a will of decedent probated outside of this State in accordance with the laws in force in the place where probated has been admitted to probate nor administration had in this State except in the _____Court of _____County

under file number_____ in which proceedings the (Order) (Decree) of (Distribution) (Descent) was entered on_____, 19___, wherein the hereinafter described real and/or personal property was (omitted) (incorrectly described). The (Order) (Decree) in which the real property hereinafter described was (omitted) (incorrectly described) was (filed) (recorded) in the Office of the (County Recorder) (Registrar of Titles), _____County, Minnesota, on the _____ day of_____, 19___, and was duly recorded in Book _____of_____, page_____, or was duly filed as Document No._____.

9. That the said (Order) (Decree) contained the following incorrect description(s):

(A) Personal property:

(B) Real property:

(1) The homestead of the decedent situated in the County of _____ _____, State of Minnesota:

(2) Other real property situated in the County of_____ _____, State of Minnesota:

10. That decedent's last will duly executed on _____, 19___, and codicil or codicils thereto duly executed on _____, 19___, (was) (were) probated by the order of this Court dated _____, 19_____, and (was) (were) construed to provide that under the provisions thereof, the hereinafter described property of decedent should be decreed as follows:

(State actual legal relationship of each devisee to decedent.)

11. That the following named persons are all the heirs of the decedent and their actual relationship to decedent is as stated (If decedent died testate, do not list heirs unless all heirs are ascertained):

12. That the previously (omitted) (incorrectly described) property of the decedent should be (included) (correctly described) herein as follows:

(A) Personal property of the value of $_____ described as follows:

(B) Real property described as follows:

(1) The homestead of the decedent situated in the County of _____ _____, State of Minnesota, described as follows:

(2) Other real property situated in the County of _____ _____, State of Minnesota, described as follows:

13. That the inheritance taxes on the herein described property have been paid or waived.

NOW, THEREFORE, it is ORDERED, ADJUDGED and DECREED by the Court as follows:

1. That the petition is hereby granted.

2. That title to the personal and real property described herein, subject to any lawful disposition heretofore made, is hereby assigned to and vested in the following named persons in the following proportions or parts:

3. That the prior (Order of Distribution) (Decree of Distribution) (Final Decree Summary Assignment or Distribution) (Decree of Descent) which is described above is amended or modified as provided herein, and is, in all other respects, confirmed.

4. That the lien of inheritance taxes, if any, on the above described property is hereby waived.

Dated: _____ _____

Judge

(COURT SEAL)

FILED:

Form 105 Minn. Stat. § 525.51 # 13

STATE OF MINNESOTA PROBATE COURT
COUNTY COURT–PROBATE DIVISION
COUNTY OF_____ Court File No. _____

In Re: Estate of

_____ Deceased

FINAL DECREE
SUMMARY ASSIGNMENT OR DISTRIBUTION
(Exempt estate) (Non-exempt estate)
(Testate) (Intestate)

The petition of _____, dated _____, 19___, for summary assignment or distribution of the estate of the above named decedent having come on for hearing before the above named Court on _____, 19___, the undersigned Judge having heard and considered such petition, being fully advised in the premises, makes the following findings and determinations:

1. That the petition for summary assignment or distribution is complete.

2. That the time for any notice has expired and any notice as required by the laws of this State has been given and proved.

3. That the petitioner(s) (has) (have) declared or affirmed that the representations contained in the petition are true, correct and complete to the best knowledge or information of petitioner(s).

4. That the petitioner(s) appear(s) from the petition to be (an) interested person(s) as defined by the laws of this State.

5. That the decedent died___testate at the age of_____years on _____, 19___, at _____.

6. That venue for this proceeding is in the above named County of the State of Minnesota, because the decedent was domiciled in such County at the time of death, and was the owner of property located in the State of Minnesota, or because, though not domiciled in the State of Minnesota, the decedent was the owner of property located in the above named County at the time of death.

7. That this Court has jurisdiction of this estate, proceeding and subject matter.

8. That decedent's last will duly executed on _____, 19___, and codicil or codicils thereto duly executed on _____, 19___, (is) (are) formally probated by this order, or (was) (were) probated by the order of this Court dated _____, 19___, and should be construed to provide that under the provisions thereof, the estate of decedent is devised as follows:

(State actual legal relationship of each devisee to decedent)

9. That the following named persons are all the heirs of the decedent and their actual relationship to decedent is as stated (If decedent died testate, do not list heirs unless all heirs are ascertained):

10. That the following named persons are preferred obligees of the estate of the decedent, and are all of the persons entitled to reimbursement (State the legal relationship of each obligee to decedent, the nature of the preference and proportion of the estate entitled to by each):

11. That the property of the decedent on hand for distribution consists of the following:

(A) Personal property of the value of $_____described as follows:

(B) Real property described as follows:

(1) The homestead of the decedent situated in the County of _____ _____, State of Minnesota, described as follows:

(2) Other real property situated in the County of _____ _____, State of Minnesota, described as follows:

12. That all of said property is either exempt from all debts and charges in the Probate Court or may be appropriated in kind in reimbursement or payment of the allowances to spouse and minor children mentioned in M.S.A. Section 525.15, expenses of administration, funeral expenses, expenses of last illness, debts having a preference under the laws of the United States, and taxes, or otherwise qualified for summary assignment or distribution pursuant to M.S.A. Section 525.51.

13. That there is no need for the appointment of a personal representative and that the administration should be closed by summary assignment or distribution as hereinafter ordered, adjudged and decreed.

14. That the inheritance taxes on the herein described property have been paid or waived.

NOW, THEREFORE, it is ORDERED, ADJUDGED, and DECREED by the Court as follows:

1. That the petition is hereby granted.

2. That decedent's last will duly executed on _____, 19___, and codicil or codicils thereto duly executed on _____, 19____, (is) (are) (hereby) (has or have been) formally probated and (is) (are) construed as above stated.

3. That the heirs of the decedent are determined to be as set forth above.

4. That the property of the decedent on hand for distribution is as above stated.

5. That title to the personal and real property described herein, subject to any lawful disposition heretofore made, is hereby assigned to and vested in the following named persons in the following proportions or parts (State as devisee, as heir or as obligee):

6. That the lien of inheritance taxes, if any, on the above described property is hereby waived.

Dated: _____ _____

Judge

(COURT SEAL)

FILED:

Form No. 106

Minnesota Uniform Conveyancing Blanks (1978)

BONA FIDE PURCHASER DECLARATION
(pursuant to
Minnesota Statutes 291.14 Subd. 4)
AND AFFIDAVIT OF NO SELF DEALING

ESTATE OF _____

_____

_____, DECEDENT.

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

(reserved for recording data)

_____, being first duly sworn, states:

1. That affiant is the personal representative of the Estate of the above-named decedent, in _____ County Probate File No. _____, who died on _____, 19___, in _____ County, Minnesota.

2. That affiant's address is: _____
_____;

3. That assets of the probate estate of said decedent include real property in the County of _____, State of Minnesota, described as follows:

(If more space is needed, continue on back)

4. That affiant (sold) (mortgaged) (leased) the above described real property by instrument dated _____, 19___, to _____, a bona fide purchaser for the full consideration of $_____:

5. That this transaction does not constitute a sale, mortgage or lease to affiant, affiant's personal agent or attorney, or any corporation or trust in which affiant has a substantial beneficial interest, and furthermore, this sale is not a transaction which is affected by a substantial conflict of interest on the part of affiant.

Subscribed and sworn to before me this
_____day of_____, 19___. _____
Personal Representative

_____
Notary Public

This instrument was drafted by:
_____
_____
_____

Notarial Stamp or Seal

NOTICE: CERTIFIED COPY OF LETTERS MUST BE ATTACHED TO THIS AFFIDAVIT, OR IT CANNOT BE RECORDED.

Form No. 107—Personal Representative's Deed of Distribution
Minnesota Uniform Conveyancing Blanks (1978)

Individual Personal Representative
Note: This deed should be used only for distribution.

Transfer entered on _____, 19____ _____ County Auditor by _____ Deputy	
Date: _____, 19____	
NO STATE DEED TAX DUE HEREON	(reserved for recording data)

_____, Grantor,
as Personal Representative of the Estate of _____
Decedent, single ☐ , married ☐ at the time of death, hereby conveys to
_____, Grantee(s),
real property in _____, County,
Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

STATE OF MINNESOTA)
) ss.
COUNTY OF_____)

_____

_____

The foregoing instrument was acknowledged before me this _____ day of _____, 19___, by _____ _____, as Personal Representative of the Estate of _____, Decedent.

_____
Notary Public

Notarial Stamp of Seal

THIS INSTRUMENT WAS DRAFTED BY:

_____

_____

_____

Statements for real estate taxes on the real property described herein should be sent to:

_____

_____

_____

Form No. 108–Personal Representative's Deed of Distribution
Minnesota Uniform Conveyancing Blanks (1978)
Corporate Personal Representative
Note: This deed should be used only for distribution.

Transfer entered on _____, 19____ _____ County Auditor by_____ Deputy	
Date: _____, 19____	
NO STATE DEED TAX DUE HEREON	(reserved for recording data)

_____, Grantor, a _____ under the laws of _____, as Personal Representative of the Estate of _____, Decedent, single ☐, married ☐ at the time of death, hereby conveys to _____, Grantee(s), real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

_____

By: _____
Its: _____

STATE OF MINNESOTA)
) ss. By: _____
COUNTY OF _____) Its: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____ and _____, the _____ and _____ of _____, a _____, under the laws of _____, as Personal Representative of the Estate of _____, Decedent, on behalf of the _____.

_____
Notary Public

Notarial Stamp or Seal

THIS INSTRUMENT WAS DRAFTED BY:

_____
_____
_____

Statements for real estate taxes on the real property described herein should be sent to:

_____
_____
_____

Form No. 109–Personal Representative's Deed

Minnesota Uniform Conveyancing Blanks (1978)

Individual Personal Representative to Individual(s)

No delinquent taxes; certificate of real estate value received; and transfer entered on _____, 19____ _____ County Auditor by _____ Deputy	
STATE DEED TAX DUE HEREON: $ _____ Date: _____, 19____	(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, Grantor,
as Personal Representative of the Estate of _____
_____ Decedent, single ☐, married ☐ at the time of
death, hereby conveys to _____
_____, Grantee(s), real property
in _____, County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

STATE OF MINNESOTA)
) ss. _____
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____
day of _____, 19____, by _____
_____, as Personal Representative of the Estate
of _____, Decedent.

Notarial Stamp or Seal

_____
Notary Public

_____, SPOUSE OF DECEDENT,
Name of Spouse CONSENTS TO THIS DEED.

STATE OF MINNESOTA)
) ss.
COUNTY OF_____)

_____
Signature of Spouse

The foregoing instrument was acknowledged before me this_____ day of_____, 19___, by_____, spouse of _____, Decedent.

Notarial Stamp or Seal

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

_____

_____

_____

Statements for real estate taxes on the real property described herein should be sent to:

_____

_____

_____

Form No. 110–Personal Representative's Deed

Minnesota Uniform Conveyancing Blanks (1978)

Individual Personal Representative to Corporation or Partnership

No delinquent taxes; certificate of real estate value received; and transfer entered on _____, 19____ _____ County Auditor by _____ Deputy	
STATE DEED TAX DUE HEREON: $ _____ Date: _____, 19____	(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____, Grantor, as Personal Representative of the Estate of _____ Decedent, single ☐, married ☐ at the time of death, hereby conveys to _____, Grantee, a _____ under the laws of _____, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

_____

STATE OF MINNESOTA)
) ss. _____
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____, as Personal Representative of the Estate of _____, Decedent.

Notarial Stamp or Seal

_____
Notary Public

_____, SPOUSE OF DECEDENT,
Name of Spouse CONSENTS TO THIS DEED.

STATE OF MINNESOTA)
) ss.
COUNTY OF_____)

_____
Signature of Spouse

The foregoing instrument was acknowledged before me this _____ day of _____, 19__, by _____, spouse of _____, Decedent.

Notarial Stamp or Seal

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

_____

_____

_____

Statements for real estate taxes on the real property described herein should be sent to:

_____

_____

_____

Form No. 111–Personal Representative's Deed

Minnesota Uniform Conveyancing Blanks (1978)

Individual Personal Representative to Joint Tenants

No delinquent taxes; certificate of real estate value received; and transfer entered on _____, 19____ _____ County Auditor by _____ Deputy	
STATE DEED TAX DUE HEREON: $_____ Date: _____, 19____	(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____, Grantor, as Personal Representative of the Estate of _____ Decedent, single ☐, married ☐ at the time of death, hereby conveys to _____, Grantees, as joint tenants, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

_____

STATE OF MINNESOTA)
) ss. _____
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____, as Personal Representative of the Estate of _____, Decedent.

Notarial Stamp or Seal

_____
Notary Public

_____, SPOUSE OF DECEDENT,
Name of Spouse CONSENTS TO THIS DEED.

STATE OF MINNESOTA }
} ss.
COUNTY OF_____ }

_____
Signature of Spouse

The foregoing instrument was acknowledged before me this_____ day of_____, 19___, by_____, spouse of _____, Decedent.

Notarial Stamp or Seal

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

_____

_____

_____

Statements for real estate taxes on the real property described herein should be sent to:

_____

_____

_____

Form No. 112–Personal Representative's Deed

Minnesota Uniform Conveyancing Blanks (1978)

Corporate Personal Representative to Individual(s)

No delinquent taxes; certificate of real estate value received; and transfer entered on _____, 19____ _____ County Auditor by _____ Deputy	
STATE DEED TAX DUE HEREON: $ _____ Date: _____, 19____	(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____, Grantor, a _____ under the laws of _____, as Personal Representative of the Estate of _____, _____, Decedent, single ☐, married ☐ at the time of death, hereby conveys to _____, Grantee(s), real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

_____

By: _____
Its: _____

STATE OF MINNESOTA } ss.
COUNTY OF _____ }

By: _____
Its: _____

The foregoing instrument was acknowledged before me this_____ day of_____, 19___, by_____ _____ and_____, the_____ and_____ of_____, a_____, under the laws of_____, as Personal Representative of the Estate of_____, Decedent, on behalf of the_____.

Notarial Stamp or Seal

_____
Notary Public

_____, SPOUSE OF DECEDENT,
Name of Spouse CONSENTS TO THIS DEED.

STATE OF MINNESOTA)
) ss.
COUNTY OF_____)

_____
Signature of Spouse

The foregoing instrument was acknowledged before me this_____ day of_____, 19___, by_____, spouse of _____, Decedent.

Notarial Stamp or Seal

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

_____
_____
_____

Statements for real estate taxes on the real property described herein should be sent to:

_____
_____
_____

Form No. 113–Personal Representative's Deed

Minnesota Uniform Conveyancing Blanks (1978)

Corporate Personal Representative to Corporation or Partnership

No delinquent taxes; certificate of real estate value received; and transfer entered on _____, 19____ _____ County Auditor by _____ Deputy	
STATE DEED TAX DUE HEREON: $_____ Date: _____, 19____	(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____ _____, Grantor, a _____ under the laws of _____, as Personal Representative of the Estate of _____, _____, Decedent, single ☐, married ☐ at the time of death, hereby conveys to _____ _____, Grantee, a _____ under the laws of _____, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

_____

By: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

By: _____

Its: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 19___, by _____ and _____, the _____ and _____ of _____, a _____, under the laws of _____, as Personal Representative of the Estate of _____, on behalf of the _____.

Notarial Stamp or Seal

_____
Notary Public

_____, SPOUSE OF DECEDENT,
Name of Spouse CONSENTS TO THIS DEED.

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

_____
Signature of Spouse

The foregoing instrument was acknowledged before me this _____ day of _____, 19___, by _____, spouse of _____, Decedent.

Notarial Stamp or Seal

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

_____
_____
_____

Statements for real estate taxes on the real property described herein should be sent to:

_____
_____
_____

Form No. 114–Personal Representative's Deed

Minnesota Uniform Conveyancing Blanks (1978)

Corporate Personal Representative to Joint Tenants

No delinquent taxes; certificate of real estate value received; and transfer entered on _____, 19____ _____ County Auditor by _____ Deputy	
STATE DEED TAX DUE HEREON: $_____ Date: _____, 19____	(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____ _____, Grantor, a _____ under the laws of _____, as Personal Representative of the Estate of _____, Decedent, single ☐, married ☐ at the time of death, hereby conveys to _____, Grantees, as joint tenants, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

_____

By: _____
Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

By: _____
Its: _____

The foregoing instrument was acknowledged before me this_____ day of_____, 19___, by_____ _____and _____, the _____ and _____ of_____, a _____, under the laws of_____, as Personal Representative of the Estate of_____, as Decedent, on behalf of the _____.

Notarial Stamp or Seal

_____
Notary Public

_____, SPOUSE OF DECEDENT,
Name of Spouse CONSENTS TO THIS DEED.

STATE OF MINNESOTA)
) ss.
COUNTY OF_____)

_____
Signature of Spouse

The foregoing instrument was acknowledged before me this_____ day of_____, 19___, by_____, spouse of _____, Decedent.

Notarial Stamp or Seal

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

_____

_____

_____

Statements for real estate taxes on the real property described herein should be sent to:

_____

_____

_____

FORM NO. 115

AFFIDAVIT REGARDING PURCHASER(S) (INDIVIDUAL)

Form No. 115

Individual

State of Minnesota,

County of _____) " Affidavit Regarding Purchaser(s)

_____

being first duly sworn, on oath say(s) that:

1. (They are) (__he is) (__he knows) _____

_____

_____ the person(s) named as _____

_____ in the document dated _____, 19__, and filed for record _____, 19__ as Document No _____, (or in Book _____ of _____, _____ Page _____) in the Office of the (County Recorder) (Registrar of Titles) of _____ County, Minnesota.

2. Said person(s) (is) (are) of legal age and under no legal disability with place of business(es) (respectively at) _____

_____

_____ and for the last ten years (have) (has) resided at:

3. There are no:
   a. Bankruptcy, divorce or dissolution proceedings involving said person(s) during the time period in which said person(s) have had any interest in the premises described in the above document ("Premises");
   b. Unsatisfied judgments of record against said person(s) nor, to your Affiant(s) knowledge, any actions pending in any courts which affect the Premises;
   c. Tax liens filed against said person(s);
   except as herein stated:

4. Any bankruptcy, divorce or dissolution proceedings of record against parties with the same or similar names, during the time period in which the above named person(s) (has) (have) had any interest in the Premises, are not against the above named person(s).

5. Any judgments or tax liens of record against parties with the same or similar names are not against the above named person(s).

6. Said person(s) (has) (have) not ordered or arranged for any labor or materials to be furnished to the Premises for which payment has not been made.

7. There are no persons in possession of any portion of the Premises of which Affiant(s) (has) (have) knowledge, other than pursuant to a recorded document, except as stated herein:

That Affiant(s) know(s) the matters herein stated are true and make(s) this Affidavit for the purpose of inducing the acceptance of title to the Premises.

_____

_____

Subscribed and sworn to before me this ___ day of _____, 19__.

_____

SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

FORM NO. 116

AFFIDAVIT REGARDING SELLER(S) (INDIVIDUAL)

Form No. 116
Individual

State of Minnesota,
County of _____

Affidavit Regarding Seller(s)

_____
being first duly sworn, on oath say(s) that:

1. (They are) (__he is) (__he knows) _____
_____
_____ the person(s) named as _____
_____ in the document dated _____,
19__ and filed for record _____, 19__, as Document No _____,
(or in Book _____ of _____ Page _____) in the Office of the (County Recorder) (Registrar of Titles) of _____ County, Minnesota.

2. Said person(s) (is) (are) of legal age and under no legal disability with place of business(es) (respectively) at _____
_____
_____ and for the last ten years (has) (have) resided at:

3. There have been no:
   a. Bankruptcy, divorce or dissolution proceedings involving said person(s) during the time said person(s) (have) (has) had any interest in the premises described in the above document ("Premises");
   b. Unsatisfied judgments of record against said person(s) nor any actions pending in any courts which affect the Premises;
   c. Tax liens against said person(s),
   except as herein stated:

4. Any bankruptcy, divorce or dissolution proceedings of record against parties with the same or similar names, during the time period in which the above named person(s) (has) (have) had any interest in the Premises, are not against the above named person(s).

5. Any judgments, or tax liens of record against parties with the same or similar names are not against the above named person(s).

6. There has been no labor or materials furnished to the Premises for which payment has not been made.

7. There are no unrecorded contracts, leases, easements, or other agreements or interests relating to the Premises except as stated herein:

8. There are no persons in possession of any portion of the Premises other than pursuant to a recorded document except as stated herein.

9. There are no encroachments or boundary line questions affecting the Premises of which Affiant(s) (has) (have) knowledge.

Affiant(s) know(s) the matters herein stated are true and make(s) this Affidavit for the purpose of inducing the passing of title to the Premises.

_____

_____

Subscribed and sworn to before me
this __ day of _____, 19__.

_____
(SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL)

(NOTARIAL STAMP OR SEAL (OR PRINTED TITLE OF OFFICIAL))

(THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS))

FORM NO. 117

AFFIDAVIT REGARDING CORPORATION

State of Minnesota,
County of _____) ss.

Affidavit Regarding Corporation

_____

being first duly sworn, on oath say(s) that:

1. (They are) (__he is) the _____ and the _____ respectively, of _____, a _____ corporation, the corporation named as _____ in the document dated _____, 19__, and filed for record _____, 19__ as Document No. _____ (or in Book _____ of _____ Page _____) in the Office of the (County Recorder) (Registrar of Titles) of _____ County, Minnesota.

2. Said corporation's principal place of business is at _____ and said corporation's previous principal place(s) of business during the past ten years (has) (have) been at:

3. There have been no:
   a. Bankruptcy or dissolution proceedings involving said corporation during the time said corporation has had any interest in the premises described in the above document ("Premises");
   b. Unsatisfied judgments of record against said corporation nor any actions pending in any courts, which affect the Premises;
   c. Tax liens filed against said corporation;
   except as herein stated:

4. Any bankruptcy or dissolution proceedings of record against corporations with the same or similar names, during the time period in which the above named corporation had any interest in the Premises, are not against the above named corporation.

5. Any judgments or tax liens of record against corporations with the same or similar names are not against the above named corporation.

6. There has been no labor or materials furnished to the Premises for which payment has not been made.

7. There are no unrecorded contracts, leases, easements or other agreements or interests relating to the Premises except as stated herein:

8. There are no persons in possession of any portion of the Premises other than pursuant to a recorded document except as stated herein:

9. There are no encroachments or boundary line questions affecting the Premises of which Affiant(s) (has) (have) knowledge.

Affiant(s) know(s) the matters herein stated are true and make(s) this Affidavit for the purpose of inducing the passing of title to the Premises.

_____

_____

Subscribed and sworn to before me this _____ day of _____, 19__

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

FORM NO. 118

AFFIDAVIT REGARDING PARTNERSHIP

Form No. 118
Partnership

State of Minnesota,
County of _____

" Affidavit Regarding Partnership

_____
being first duly sworn, on oath say(s) that:

1. (They are) (he is) _____ partner(s) of _____
_____ partnership, the partnership named as _____
in the document dated _____, 19__,
and filed for record _____, 19__ as Document No. _____
(or in Book _____ of _____ Page _____) in the Office of the (County Recorder (Registrar of Titles) of _____ County, Minnesota.

2. Said partnership's principal place of business is at _____
_____ and said partnership's previous principal place(s) of business during the past ten years (has) (have) been at:

3. There have been no:
   a. Bankruptcy proceedings involving said partnership or partners thereof, or dissolution proceedings involving said partnership, during the time said partnership has had any interest in the premises described in the above document ("Premises"),
   b. *Unsatisfied judgments of record against said partnership nor any actions pending in any* courts, which affect the Premises.
   c. Tax liens filed against said partnership;
   except as herein stated:

4. Any bankruptcy or partnership dissolution proceedings of record against partnerships or persons with the same or similar names, during the time period in which the above named partnership had any interest in the Premises, are not against the above named partnership or the partners thereof

5. Any judgments or tax liens of record against partnerships with the same or similar names are not against the above named partnership.

6. There has been no labor or materials furnished to the Premises for which payment has not been made.

7. There are no unrecorded contracts, leases, easements or other agreements or interests relating to the Premises except as stated herein:

8. There are no persons in possession of any portion of the Premises other than pursuant to a recorded document except as stated herein:

9. There are no encroachments or boundary line questions affecting the Premises of which Affiant(s) (has) (have) knowledge.

Affiant(s) know(s) the matters herein stated are true and make(s) this Affidavit for the purpose of inducing the passing of title to the Premises

_____
_____

Subscribed and sworn to before me
this _____ day of _____, 19__

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

(NOTARIAL STAMP OR SEAL OR OTHER TITLE OR RANK)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

Form No. 1–M

FORM NO. 1–M

WARRANTY DEED—INDIVIDUAL(S) TO INDIVIDUAL(S)

Form No. 1-M—WARRANTY DEED
Individual(s) to Individual(s)

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19 ____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19 ____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, Grantor(s),
(marital status)

hereby convey(s) and warrant(s) to _____
_____, Grantee(s),

real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

Affix Deed Tax Stamp Here

_____
_____
_____
_____

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____
_____, Grantor(s).

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 2–M

WARRANTY DEED, EXCEPT ASSESSMENTS—INDIVIDUAL(S) TO INDIVIDUAL(S)

Form No. 2-M—WARRANTY DEED, Except Assessments
Individual (s) to Individual (s)

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19 ____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19 ____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, Grantor (s),
(marital status)
hereby convey (s) and warrant (s) to _____
_____, Grantee (s),
real property in _____ County, Minnesota, described as follows:

(If more space is required, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: the lien of all unpaid special assessments and interest thereon:

Affix Deed Tax Stamp Here

_____
_____
_____
_____

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____
_____, Grantor(s)

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in the instrument should be sent to (Include name and address of Grantee)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 3–M

WARRANTY DEED—INDIVIDUAL(S) TO CORPORATION OR PARTNERSHIP

Form No. 3-M—WARRANTY DEED
Individual(s) to Corporation or Partnership

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, Grantor(s),
(marital status)
hereby convey(s) and warrant(s) to _____
_____, Grantee,
a _____ under the laws of _____,
real property in _____ County, Minnesota, described as follows:

(if more space is needed, continue on back)
together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

Affix Deed Tax Stamp Here

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____
_____, Grantor(s).

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 4–M

WARRANTY DEED, EXCEPT ASSESSMENTS—INDIVIDUAL(S) TO CORPORATION OR PARTNERSHIP

Form No. 4-M—WARRANTY DEED, Except Assessments
Individual(s) to Corporation or Partnership

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date _____, 19____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____ (marital status), Grantor(s),
hereby convey(s) and warrant(s) to _____
_____, Grantee,
a _____ under the laws of _____,
real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)
together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: the lien of all unpaid special assessments and interest thereon:

Affix Deed Tax Stamp Here

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____, Grantor(s).

NOTARIAL STAMP OR SEAL
(or other title or rank)

Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 5–M

WARRANTY DEED—INDIVIDUAL(S) TO JOINT TENANTS

Form No. 5-M WARRANTY DEED
Individual(s) to Joint Tenants

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, Grantor (s),
(another spouse)

hereby convey (s) and warrant (s) to _____
_____, Grantees as joint
tenants, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

Affix Deed Tax Stamp Here

_____
_____
_____
_____

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____
_____, Grantor(s).

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 6–M

WARRANTY DEED, EXCEPT ASSESSMENTS—INDIVIDUAL(S) TO JOINT TENANTS

Form No. 6–M—WARRANTY DEED, Except Assessments, Individual(s) to Joint Tenants

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, Grantor(s),
(marital status)

hereby convey(s) and warrant(s) to _____
_____, Grantees as joint tenants, real property in _____ County, Minnesota, described as follows:

(if more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: the lien of all unpaid special assessments and interest thereon:

_____
Affix Deed Tax Stamp Here _____
_____
_____

STATE OF MINNESOTA
COUNTY OF _____ } ss. _____

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____
_____, Grantor(s).

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 7–M

WARRANTY DEED—CORPORATION OR PARTNERSHIP TO INDIVIDUAL(S)

Form No. 7-M—WARRANTY DEED
Corporation or Partnership
to Individual(s)

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, a _____ under the laws of
_____, Grantor, hereby conveys and warrants to _____, Grantee(s),
real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)
together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

Affix Deed Tax Stamp Here

_____
By _____
Its _____

By _____
Its _____

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing was acknowledged before me this _____ day of _____, 19____,
by _____ and _____,
the _____ and _____
of _____, a _____
under the laws of _____, on behalf of the _____

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to (Include name and address of Grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 8–M

WARRANTY DEED, EXCEPT ASSESSMENTS—CORPORATION OR PARTNERSHIP TO INDIVIDUAL(S)

Form No. 8-M—WARRANTY DEED, Except Assessments
Corporation or Partnership to Individual(s)

No delinquent taxes and transfer entered. Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19___

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, a _____ under the laws of _____, Grantor, hereby conveys and warrants to _____, Grantee (s), real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: the lien of all unpaid special assessments and interest thereon;

Affix Deed Tax Stamp Here

_____ _____

By _____
Its _____

By _____
Its _____

STATE OF MINNESOTA
COUNTY OF _____ } ss.

The foregoing was acknowledged before me this _____ day of _____, 19___,
by _____ and _____,
the _____ and _____
of _____, a _____
under the laws of _____, on behalf of the _____.

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to (Include name and address of Grantee)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 9–M
WARRANTY DEED—CORPORATION OR PARTNERSHIP TO CORPORATION OR PARTNERSHIP

Form No. 9-M—WARRANTY DEED
Corporation or Partnership to Corporation or Partnership

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____, a _____ under the laws of _____, Grantor, hereby conveys and warrants to _____, Grantee, a _____ under the laws of _____, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions.

Affix Deed Tax Stamp Here

_____
By _____
Its _____

By _____
Its _____

STATE OF MINNESOTA
COUNTY OF _____ } ss.

The foregoing was acknowledged before me this _____ day of _____, 19____,
by _____ and _____,
the _____ and _____
of _____, a _____
under the laws of _____, on behalf of the _____

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to (Include name and address of Grantee)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 10–M

WARRANTY DEED, EXCEPT ASSESSMENTS—CORPORATION OR PARTNERSHIP TO CORPORATION OR PARTNERSHIP

Form No. 10-M—WARRANTY DEED, Except Assessments

Corporation or Partnership to Corporation or Partnership

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON $ _____

Date: _____, 19____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, a _____ under the laws of _____, Grantor, hereby conveys and warrants to _____, Grantee, a _____ under the laws of _____, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: the lien of all unpaid special assessments and interest thereon;

Affix Deed Tax Stamp Here

_____

By _____
Its _____

By _____
Its _____

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing was acknowledged before me this _____ day of _____, 19____,
by _____ and _____,
the _____ and _____
of _____, a _____
under the laws of _____, on behalf of the _____.

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee.)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 11-M

WARRANTY DEED—CORPORATION OR PARTNERSHIP TO JOINT TENANTS

Form No. 11-M—WARRANTY DEED
Corporation or Partnership to Joint Tenants

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19 ____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19 ____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, a _____ under the laws of _____, Grantor, hereby conveys and warrants to _____, Grantees as joint tenants, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

Affix Deed Tax Stamp Here

_____
By _____
Its _____

By _____
Its _____

STATE OF MINNESOTA
COUNTY OF _____ } ss.

The foregoing was acknowledged before me this _____ day of _____, 19____,
by _____ and _____,
the _____ and _____
of _____, a _____
under the laws of _____, on behalf of the _____.

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 12-M

WARRANTY DEED, EXCEPT ASSESSMENTS—CORPORATION OR PARTNERSHIP TO JOINT TENANTS

Form No. 12-M—WARRANTY DEED, Except Assessments
Corporation or Partnership to Joint Tenants

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19 ____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19 ____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, a _____ under the laws of _____, Grantor, hereby conveys and warrants to _____, Grantees as joint tenants, real property in _____ County, Minnesota, described as follows:

(If more space is required, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: the lien of all unpaid special assessments and interest thereon;

Affix Deed Tax Stamp Here

_____
By _____
Its _____

By _____
Its _____

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing was acknowledged before me this _____ day of _____, 19____,
by _____ and _____,
the _____ and _____
of _____, a _____
under the laws of _____, on behalf of the _____.

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 27-M

QUIT CLAIM DEED—INDIVIDUAL(S) TO INDIVIDUAL(S)

Form No. 27-M—QUIT CLAIM DEED.
Individual(s) to Individual(s)

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, Grantor(s),
(married/single)

hereby convey(s) and quitclaim(s) to _____
_____, Grantee(s),
real property in _____ County, Minnesota, described as follows:

(If more space is required, continue on back)
together with all hereditaments and appurtenances belonging thereto.

Affix Deed Tax Stamp Here

_____
_____
_____
_____

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____
_____, Grantor(s).

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to (Include name and address of Grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 28–M

QUIT CLAIM DEED—INDIVIDUAL(S) TO CORPORATION OR PARTNERSHIP

Form No. 28-M—QUIT CLAIM DEED
Individual(s) to Corporation or Partnership

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19 ____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19 ____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, Grantor (s),
(marital status)

hereby convey (s) and quitclaim (s) to _____
_____, Grantee,
a _____ under the laws of _____,
real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

Affix Deed Tax Stamp Here

_____
_____
_____
_____

STATE OF MINNESOTA }
COUNTY OF _____ } ss

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____
_____, Grantor(s).

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Form No. 29–M UNIFORM CONVEYANCING BLANKS

FORM NO. 29–M

QUIT CLAIM DEED—INDIVIDUAL(S) TO JOINT TENANTS

Form No. 29 M—QUIT CLAIM DEED
Individual(s) to Joint Tenants

No delinquent taxes and transfer entered. Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, Grantor(s),
(Marital status)

hereby convey(s) and quitclaim(s) to _____
_____, Grantees
as joint tenants, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)
together with all hereditaments and appurtenances belonging thereto

Affix Deed Tax Stamp Here

_____
_____
_____
_____

STATE OF MINNESOTA
COUNTY OF _____ } ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____
_____, Grantor(s).

(Notarial stamp or seal
or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to (Name and Address of Grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 30–M

QUIT CLAIM DEED—CORPORATION OR PARTNERSHIP TO INDIVIDUAL(S)

Form No. 30-M – QUIT CLAIM DEED
Corporation or Partnership to Individual(s)

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19 ____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19 ____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, a _____ under the laws of _____, Grantor, hereby conveys and quitclaims to _____, Grantee (s), real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

Affix Deed Tax Stamp Here

_____
By _____
Its _____

By _____
Its _____

STATE OF MINNESOTA
COUNTY OF _____ } ss.

The foregoing was acknowledged before me this _____ day of _____, 19____,
by _____ and _____,
the _____ and _____
of _____, a _____
under the laws of _____, on behalf of the _____.

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 31-M

QUIT CLAIM DEED—CORPORATION OR PARTNERSHIP TO CORPORATION OR PARTNERSHIP

Form No. 31-M—QUIT CLAIM DEED
Corporation or Partnership
to Corporation or Partnership

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19 ____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19 ____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, a _____ under the laws of _____, Grantor, hereby conveys and quitclaims to _____, Grantee, a _____ under the laws of _____, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

_____

Affix Deed Tax Stamp Here

By _____
Its _____

By _____
Its _____

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing was acknowledged before me this _____ day of _____, 19___,
by _____ and _____,
the _____, and _____,
of _____, a _____
under the laws of _____, on behalf of the _____.

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FORM NO. 32-M

QUIT CLAIM DEED—CORPORATION OR PARTNERSHIP TO JOINT TENANTS

Form No. 32-M—QUIT CLAIM DEED

*Corporation or Partnership to Joint Tenants

No delinquent taxes and transfer entered: Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
_____, 19____

_____
County Auditor

by _____
Deputy

STATE DEED TAX DUE HEREON: $ _____

Date: _____, 19____

(reserved for recording data)

FOR VALUABLE CONSIDERATION, _____
_____, a _____ under the laws of _____, Grantor, hereby conveys and quitclaims to _____, Grantees as joint tenants, real property in _____ County, Minnesota, described as follows:

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

Affix Deed Tax Stamp Here

_____
By _____
Its _____

By _____
Its _____

STATE OF MINNESOTA
COUNTY OF _____ } ss.

The foregoing was acknowledged before me this _____ day of _____, 19____,
by _____ and _____,
the _____ and _____
of _____, a _____
under the laws of _____, on behalf of the _____.

NOTARIAL STAMP OR SEAL
(or other title or rank)

_____
Signature of person taking acknowledgment

Tax Statements for the real property described in this instrument should be sent to (Include name and address of Grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Department of Commerce, Securities Division Rules and Regulations Relating to Minnesota Statutes, 1973, Chapter 80C

FRANCHISES

SDiv 1701 (M.S. 80C.01). Definitions — For the purposes of Minn. Stat., 1973 Supplement, Chapter 80C and these rules these terms shall have the following meanings:

(a) "Affiliate" of another person means any person directly or indirectly controlling, controlled by, or under common control with such other person.

(b) "Approved source" means any source which meets the specifications or standards prescribed by the franchisor for the purchase or lease of goods by the franchisee as distinguished from a designated source.

(c) "Cancellation" and "termination" shall be synonymous and include the abolition of, ending of, or invalidation of a franchise agreement.

(d) "Designated sources" shall include any sources which the franchisor specifies as the only or exclusive suppliers from whom the franchisee may purchase or lease his goods as distinguished from an approved source.

(e) "Franchise" shall not include any contract or agreement whereby a person is granted the right to transport freight and perform household goods moving services by motor vehicles, provided such activity is subject to the jurisdiction and regulation of the Interstate Commerce Commission.

(f) "Grant" means to give, bestow or confer a franchise upon a franchisee.

(g) "Motor vehicle" means any automobile, truck, truck tractor, motorcycle or self-propelled motor home or camper if the foregoing is designed primarily for the transportation of persons or property on the public highways.

(h) "Sale", "sell", "offer", and "offer to sell" shall include the renewal or extension of an existing franchise for value for the purposes of Minn. Stat., 1973 Supplement, Section 80C.10 to 80C.22 and SDiv 1710 to 1722.

(i) "Value" and "for value" shall include any consideration sufficient to support a simple contract.

SDiv 1702 (M.S. 80C.02). Registration Requirement

(a) An effective order of registration shall authorize the offer, grant or sale of one or more franchises provided that the initial contracts or agreements under which they are offered are substantially identical in their terms or provisions. Whenever the franchisor offers, grants or sells more than one franchise and the resulting contracts or agreements vary substantially in their terms or provisions, separate franchises shall be deemed to have been offered, granted or sold and separate registrations shall be required. For the purpose of this rule, substantial variation in the contract or agreement shall relate to different products, services, fees charged, duties imposed, obligations incurred, or investments required to be made by the contract or agreement.

However, variation of terms or provisions within a contract or agreement designed to recognize individual differences in time, geography, market, volume or size or costs for goods, materials and supplies incurred by the franchisor shall not be considered as substantially varying the contract or agreement so as to constitute a new franchise offering.

(b) When a franchisor offers area franchises in the State of Minnesota, it shall be the primary responsibility of the franchisor to register the area franchise to be offered. It shall further be the primary responsibility of the franchisor to register the (sub)franchise to be offered whenever any obligations or duties exist or fees are transmitted, directly or indirectly, between the franchisor and the (sub)franchisee.

(c) There need be no registration in effect prior to the extension or renewal of an existing franchise or the grant of an additional franchise to an existing franchisee unless the extended, renewed or additional franchise varies substantially from the franchise which is presently possessed by the franchisee. However, no person, as a condition of the extension or renewal or the grant of such additional franchises, may require a franchisee to conform to any franchise contract or agreement the provisions of which are "unfair and inequitable" as those terms are defined within these rules.

SDiv 1703 (M.S. 80C.03). Exemptions

(a) Isolated sales. The provisions of Minn. Stat., 1973 Supplement, 80C.03(1) shall be available to franchisees only. The provisions of this rule shall not be interpreted as to require registration of the franchise prior to its transfer under these circumstances. However, no person, in connection with such a transfer, may require a substituted franchisee to sign a franchise contract or agreement which violates the "unfair and inequitable" provisions of SDiv 1714 or SDiv 1718, whichever is applicable.

(b) Securities. The provisions of Minn. Stat., 1973 Supplement, 80C.03(4) shall be available only when the franchise is in fact registered as a security in the State of Minnesota. All reference to Minn. Stat., Chapter 80 shall include Minn. Stat., 1973 Supplement, Chapter 80A, and provisions amendatory thereto.

SDiv 1704 (M.S. 80C.04). Application for Registration

(a) Guidelines for Preparation of Applications for Registration.

(1) The guidelines set forth in these rules are intended to indicate the form and informational content of an application for registration required by the Securities Division of the Department of Commerce. These guidelines shall be applicable to applications filed pursuant to Minn. Stat., 1973 Supplement, Chapter 80C. The primary purpose of the application for registration is to provide compliance with the requirements of Minn. Stat., 1973 Supplement, Chapter 80C and the rules and regulations promulgated thereunder. The information to be included in the application for registration and public offering statement is set out in detail below and in SDiv 1706 and SDiv 1718. The information requested is not to be viewed as determinative of the entire obligation of disclosure. Disclosure means more than merely compiling the information requested by the application form or supplying the information suggested by the guidelines. The extent of the required disclosure will depend upon the materiality of the particular facts

and circumstances involved. This obligation is the independent obligation of all persons contributing to the disclosure including the franchisor and its counsel and accountant, to the extent of their professional involvement therein. Applications for registration which are inadequately prepared and seriously deficient in terms of compliance with the Statute and rules will be summarily denied.

(2) An application for registration of a franchise shall be made by filing a facing page in the form required by SDiv 1704(b) accompanied by a proposed public offering statement required by SDiv 1706, the $250 fee and a consent to service of process required by SDiv 1720, if applicable.

(b) All applications for registration, annual report or registration amendment shall have as the first page thereof a facing page in the following form containing the information therein specified:

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
SECURITIES DIVISION

This is submitted for (check one only):

Application for Registration (Franchise) ( )

Annual Report ( )

Amendment of Registration of _____ ( )
(date)

(For use by the Department of Commerce)

File No.: _____ Fee: $_____
(To be completed by the applicant)

Fee Paid: _____

Receipt No.: _____

Initial Review: _____ Date of Application

Effective Date: _____ _____
(To be completed by the applicant)

Orders Issued: _____

Examiners Initials: _____

Name, telephone number, and address of person to whom questions concerning this statement should be directed.

(c) Financial Statements. All financial statements required by these rules shall be prepared in accordance with generally accepted accounting principles. Financial statements shall be audited by an independent certified public accountant who shall express an opinion thereon, except where these Rules permit the use of unaudited statements for interim periods or otherwise. Any financial statement prepared in accordance with the rules and requirements of the Securities and Exchange Commission shall satisfy the requirements of this Section; provided, however, that the statements are audited by an independent certified public accountant who expresses an opinion thereon.

(d) Whenever in these rules financial statements of a franchisor or other person are required without further description, such requirement refers to a balance sheet as of the end of the franchisor's most recent fiscal year, as well as an income statement and a statement of changes in financial position for the twelve month period preceding the date of the balance sheet. If the fiscal year end of the franchisor is in excess of 90 days prior to the date of filing the application, the financial statements shall also contain a balance sheet, income statement, and statement of changes in financial position as of a date within 90 days of the date of filing the application; provided, however, that such interim statements need not be audited.

(e) If amendments or other delays cause the above-described financial statements to become more than four (4) months old as of the effective date of the registration statement, then updated financial statements as of a date within four (4) months of the effective date shall be filed if the franchisor has no established record of earnings or is currently showing losses or a weak financial condition. If the franchisor has an established record of earnings and is in sound financial condition, a paragraph containing later information as to sales, net income and financial condition may be added in lieu of updating the financial statements, in the discretion of the Commissioner. However, in no case shall the financial statements be more than six (6) months old as of the effective date of the registration statement. If a delay carries the effective date beyond the end of the franchisor's fiscal year, and by applying due diligence the registrant and accountant can have the audit completed prior to the effective date, certified statements should be filed as of the end of the fiscal year.

(f) The auditors' report required herein shall comply with the following requirements:

(1) The report shall be dated, manually signed, and shall identify the financial statements covered by the report.

(2) The report shall state whether the audit was made in accordance with generally accepted auditing standards and shall disclose any auditing procedures generally recognized as normal or deemed necessary under the circumstances of the particular case, which have been omitted, and the reasons for such omission.

(3) The report shall state clearly (1) the opinions of the accountant with respect to the financial statements covered by the report and the accounting principles and practices reflected therein; (2) the opinion of the accountant as to any changes in accounting principles or practices which have a material effect on the financial statements.

(4) Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated and, to the extent practicable, the effect of each such exception on the related financial statements given, either in the auditor's report or in a footnote to the financial statements.

(g) All financial statements filed with the Commissioner shall include a manually signed and dated consent of the accountant to the use of his name and his report in the public offering statement and registration statement.

(h) If the independent accountant who has been engaged as the principal accountant to audit the franchisor's financial statements was not the prin-

cipal accountant for the franchisor's most recently filed certified financial statements, the franchisor shall furnish the commissioner with a statement of the date when such independent accountant was engaged and whether, in the eighteen months preceding such engagements, there were any disagreements with the former principal accountant on any manner of accounting principles or practices, financial statement disclosure, or auditing procedure, which disagreements if not resolved to the satisfaction of the former accountant would have caused him to make reference in connection with his opinion to the subject matter of the disagreement. The franchisor shall also request the former accountant to furnish the franchisor with a letter stating whether he agrees with the statements contained in the letter of the franchisor and, if not, stating the respects in which he does not agree; and the franchisor shall furnish such letter to the Commissioner together with its own.

(i) Consolidated Statements. Financial statements filed in accordance with the provisions of this regulation shall generally be prepared on a consolidated basis when the franchisor has a "controlling financial interest" in its subsidiary or subsidiaries as those terms are understood under generally accepted accounting principles.

The consolidated financial statements of a franchisor's parent company shall be accepted only when either (1) the parent company guarantees to assume the duties and obligations of the franchisor under the franchise agreement should the franchisor become unable to perform the duties and obligations; or, (2) the parent company posts a surety bond in the amount of the initial franchise fee charged each franchisee conditioned upon the fulfillment of the franchisor's duties and obligations under the franchise agreement.

SDiv 1705 (M.S. 80C.05). Registration Provisions

(a) Every application for registration, amendments thereto, and annual report shall be signed and verified by the applicant and by the franchisor and subfranchisor on whose behalf the offering is to be made in the following form:

CORPORATE VERIFICATION

State of _____ }
County of _____ } ss.

_____,

being first duly sworn, says that he is the _____ of _____ above-named applicant, and executes this instrument for and in its behalf, by authority of its board of directors; that he has read the foregoing application, including all exhibits submitted therewith, and states that the contents thereof are true to the best of his knowledge and belief.

_____

Subscribed and sworn to before me this _____ day of _____, 19__.

_____

Notary Public,_____ County_____
My Commission expires:_____

INDIVIDUAL VERIFICATION

State of _____ }
County of _____ } ss.

_____,
being first duly sworn, says that he is _____
_____
applicant; that he has read the foregoing application, including all exhibits submitted therewith, and states that the contents thereof are true to the best of his knowledge and belief.

_____

Subscribed and sworn to before me this
_____ day of _____, 19__.

_____
Notary Public, _____ County_____
My Commission expires:_____

(b) Impoundments

(1) The Commissioner shall be a party to any impoundment agreement imposed as a condition of registration under Minn. Stat., 1973 Supplement, Section 80C.05

(2) When an impoundment is imposed under Minn. Stat., 1973 Supplement, Section 80C.05, 100% of franchise fees and all other funds paid by the franchisees or subfranchisors located in Minnesota for any purpose shall within two business days of the receipt of such funds, be placed with the depository until the Commissioner takes further action pursuant to Minn. Stat., 1973 Supplement, Section 80C.05. All checks shall be made payable to the depository.

(3) When an impoundment is imposed under Minn. Stat., 1973 Supplement, Section 80C.05, the franchisor shall deliver to each franchisee or subfranchisor, a purchase receipt, in a form approved by the Commissioner. Such purchase receipts shall be consecutively numbered and prepared in triplicate with the original being given to the franchisee or subfranchisor, the first copy to the depository together with the payment received and the second copy retained by the franchisor.

(4) Funds subject to any impoundment imposed under Minn. Stat., 1973 Supplement, Section 80C.05, shall be placed in a separate trust account with a bank located in Minnesota. A written consent of the depository to act in such capacity shall be filed with the Commissioner.

(aa) Prior to complete performance the Commissioner shall authorize in writing the depository to release to the franchisor such amounts of the impounded funds applicable to a specified franchisee (or subfranchisor) upon a showing that the franchisor has fulfilled its obligations under the franchise agreement or that for other reasons the impoundment is no longer required for the protection of the franchisee.

(bb) An application to the Commissioner authorizing the release of impounded funds to the franchisor shall be verified and shall contain:

(i) A statement of the franchisor that all funds required to be impounded by Minn. Stat., 1973 Supplement, Section 80C.05, have been placed with the depository in accordance with the terms and conditions of the impoundment;

(ii) A statement of the depository signed by an appropriate officer setting forth the aggregate amount of impounded funds placed with the depository;

(iii) The names of each franchisee (or subfranchisor) and the amount held in the impoundment for the account of each franchisee (or subfranchisor);

(iv) A statement that the franchisor, with respect to each franchise the funds for which are sought to be released, has completely performed obligations, cited by reference to the franchise agreement and its provisions, to provide real estate, improvements, equipment, inventory, training or other items; and

(v) Such other information as the Commissioner may reasonably require.

(c) Surety bond in lieu of impoundment. In lieu of the imposition of an impoundment under Minn. Stat., 1973 Supplement, Section 80C.05, a franchisor may post a surety bond in such amount as shall be required by the Commissioner. The Commissioner shall take into consideration the amount of franchise fees and other fees to be charged and the number of franchises to be offered, granted or sold. Such bond shall be issued by a corporate surety authorized to transact business in the State of Minnesota, conditioned upon the completion by the franchisor of its obligations under the franchise contract to provide real estate, improvements, equipment, inventory, training or other items included in the offering. The State of Minnesota shall be named as an obligee by the terms of the surety bond.

SDiv 1706 (M.S. 80C.06). Public Offering Statement

(a) Each public offering statement shall be typed or printed with standard sized black type or an adequate substitute rendering the document easily readable. No advertisement or photographs shall be permitted therein unless specifically permitted by the Commissioner.

(b) The outside front cover of the public offering statement, unless otherwise permitted by the Commissioner, shall contain the following information:

(1) The name, telephone number, and principal business address of franchisor and its type of organization.

(2) A brief description of the franchise to be offered including the trade name under which the franchisee will operate.

(3) A sample of the primary business trademark, patent, brand, logotype, name, or commercial label or symbol utilized by the franchisor under which his products or services are marketed and under which the franchisee will conduct his business. (Place in upper left-hand corner of the cover page.)

(4) The initial franchise fee, or explanation for the absence thereof. State that further information regarding the franchisee's anticipated invest-

ment can be found on the appropriate page in the body of the public offering statement. (This provision shall not be applicable in the case of franchises subject to the provisions of SDiv 1718(b) and SDiv 1718(c).)

(5) The name, telephone number, and address of the franchise sales organization if other than the franchisor.

(6) The following statement in bold face type:

THESE FRANCHISES HAVE BEEN REGISTERED UNDER THE *MINNESOTA FRANCHISE ACT. REGISTRATION* DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE COMMISSIONER OF SECURITIES OF MINNESOTA OR A FINDING BY THE COMMISSIONER THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

THE MINNESOTA FRANCHISE ACT MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WHICH IS SUBJECT TO REGISTRATION WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE, AT LEAST 7 DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST 7 DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION, BY THE FRANCHISEE, WHICHEVER OCCURS FIRST, A COPY OF THIS PUBLIC OFFERING STATEMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE FRANCHISE. THIS PUBLIC OFFERING STATEMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

(7) The date of the public offering statement which shall be the date upon which the registration is ordered effective by the Commissioner.

(c) The body of the public offering statement shall contain the information required by SDiv 1706 (d) set forth under appropriate caption or headings reasonably indicative of the principal subject matter set forth thereunder.

(1) All information is to be included in one bound or stapled document and is not to be supplied separately.

(2) With the exception of financial statements and other tabular data, information set forth in the public offering statement shall be divided into concise paragraphs or sections and shall be in narrative form. Each disclosure item shall be either positively or negatively commented upon by use of a statement which fully incorporates the information required by the item.

(3) Each public offering statement shall contain a concise table of contents showing the subject matter of the various sections or subdivisions of the public offering statement and the page number on which each section or subdivision begins.

(4) When the requirement calls for a statement or description, the description shall be made without incorporating by reference or reproducing

sections from the franchise agreement or other documents. However, the documents should be referred to for a more thorough understanding.

(d) The letters, numbers, and titles used herein merely outline the disclosure information in an orderly fashion and are not a required part of the public offering statement. However, the following sequential order should be followed:

(1) FRANCHISOR. The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any parent or affiliate that may engage in business transactions with the franchisees;

The franchisor's principal business address and the address of its agent in this state authorized to receive service of process;

The business form of the franchisor, whether corporate, partnership or otherwise, and the state or other jurisdiction under which the franchisor is organized.

The business experience of the franchisor, including the length of time the franchisor has conducted a business of the type to be operated by the franchisee, the length of time the franchisor has granted franchises for such business and the length of time the franchisor has granted franchises in other lines of business and, if so, a description of these other lines of business.

(2) IDENTITY & BUSINESS EXPERIENCE OF PERSONS AFFILIATED WITH THE FRANCHISOR: List by name and office held the officers, directors, trustees, general partners, or other persons who will have management responsibility in connection with the franchisor's business operations which relate to the franchises being offered. With respect to each person listed, state their principal occupations during the past five years. List the subfranchisors for this state, if any.

(3) LITIGATION. State whether the franchisor or any person identified in the public offering statement:

Has, during the ten-year period immediately preceding the date of the public offering statement, been convicted of a felony, pleaded nolo contendere to a felony charge, or been held liable in a civil action by final judgment if such felony or civil action involved fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, violation of any franchise law or misappropriation of property. If so, set forth the name of the person convicted, the court and date of conviction or judgment and any penalty or damages assessed.

Is subject to any currently effective order, decree, consent judgment or other assurance relating to the business which is the subject of the franchise offered under any federal or state securities, antitrust, monopoly, franchise, trade practice or trade regulation law. If so, set forth (1) the name of the person or entity involved, (2) a summary of the allegations, (3) the date, nature, terms and conditions of the order, decree, judgment or assurance, and (4) the court or agency involved.

Has any material administrative, civil or criminal actions pending against him concerning the business which is the subject of the franchise offered alleging fraud, embezzlement, fraudulent conversion, restaint of trade, unfair

or deceptive practices, violation of any franchise law or misappropriation of property. If so, set forth the name of the person, the court, nature and current status of any such pending actions and an opinion of defendant's counsel regarding defendant's position on issues in any such pending actions.

State whether the franchisor has been, during the 15-year period immediately preceding the date of the public offering statement, adjudicated a bankrupt or reorganized due to insolvency. As to any other person identified in the public offering statement, state whether the person is or has been a principal officer of a corporation or general partner in any partnership involved in any of the foregoing proceedings. If so, set forth the name of the person or corporation and the court, date, nature and current status of the proceedings.

(4) INVESTMENT OF THE FRANCHISEE. Set forth in detailed tabular form the total initial investment which will be required of the franchisee. This statement should include, but is not limited to, a description of the following items:

(aa) State the franchise fee or initial payment, if any, charged upon the signing of the franchise agreement, whether payable in lump sum or installments;

(bb) If an identical franchise fee or initial payment is not charged in connection with each franchise agreement, state the method or formula by which the amount is determined;

(cc) State whether any of the fees set forth in SDiv 1706(d)(4)(aa) or SDiv 1706(d)(4)(bb) above are refundable and, if so, under what conditions;

(dd) Include a statement indicating the proposed use of the proceeds to be raised from such fees;

(ee) State any other fees or payments or charges required by the franchisor in connection with the franchisee's preparation for entrance into the franchise;

(ff) State the fees or payments other than the initial franchise fee that the franchisee or subfranchisor is required to pay to the franchisor, including royalties, and payments or fees which the franchisor collects in whole or in part on behalf of a third party;

(gg) State to whom the above payments are due, when the payments are due, and the method by which the payments are to be made;

(hh) Include a statement estimating the following expenditures which prospective franchisees should anticipate making in connection with the franchised business (a low-high range may be stated, if applicable):

(i) equipment; fixtures, other fixed assets, construction, remodelling, leasehold improvements and decorating costs, whether or not financed by contract or installment purchase, leasing or otherwise;

(ii) initial working capital, deposits, and prepaid expenses;

(iii) all other initial goods and services including inventory, which the franchisee could reasonably be expected to purchase or lease.

(ii) Describe the real property requirements for the business which is the subject of the franchise offered. This should include the approximate size of the property and building involved, the probable location (shopping center, downtown, suburban, rural, highway, etc.) and a general statement concerning the purchase or lease costs, if estimable.

(5) FINANCING ARRANGEMENTS. State the terms and conditions of any financing arrangements offered directly or indirectly by the franchisor or his agent or affiliate.

State any past or present practice of or any intent of the franchisor to sell, assign or discount, in whole or in part, to a third party any note, contract or other obligation of the franchisee or subfranchisor.

Describe any waiver of defenses or similar provisions in any financing note, contract, or other instrument to be executed by the franchisee or subfranchisor.

(6) OBLIGATIONS OF FRANCHISEE TO PURCHASE ITEMS. State whether, by the terms of the franchise agreement or by other intentional device or practice, the franchisee or subfranchisor is required to purchase or lease from the franchisor or its designated sources any goods, services, supplies, products, fixtures, equipment, inventory, or real estate relating to the establishment or operation of the franchise business, together with a general description thereof.

State the means by which the franchisor may derive income, if any, as a result of such required purchases or leases. To the extent known or estimable by the franchisor, state the magnitude of such required purchases or leases in relation to all purchases or leases which the franchisee will make or enter into in the establishment and the operation of the franchised business.

(7) TERMS OF THE FRANCHISE. State the following with respect to the franchise and any related agreements:

(aa) The term and whether the term is affected by the term of any other agreement;

(bb) The conditions under which the franchisee may renew or extend;

(cc) The conditions under which the franchisor may refuse to renew or extend;

(dd) The conditions under which the franchisor may terminate;

(ee) The conditions under which the franchisee may terminate;

(ff) The obligations of the franchisee after termination of the franchise whether such termination be by the franchisor or the franchisee or the expiration of the franchise;

(gg) The conditions under which the franchisee or its owners may sell or assign, in whole or in part;

(hh) The conditions under which the franchisor may sell or assign, in whole or in part;

(ii) The conditions under which the franchisor may repurchase, in whole or in part. If the franchisor has the right or option to repurchase the

franchise, state whether there will be an independent appraisal of the franchise and recognition of goodwill or other intangibles associated therewith in the repurchase price to be given to the franchisee;

(jj) Describe the provisions regarding the franchisee's equity upon sale, termination, refusal to renew or repurchase;

(kk) The conditions under which the franchisee may modify;

(ll) The conditions under which the franchisor may modify;

(mm) The contractual rights of the heirs or personal representative of the franchisee to the franchise upon the death or incapacity of said franchisee; and

(nn) The conditions of any covenant not to compete.

(8) LIMITATION ON GOODS AND SERVICES OFFERED BY FRANCHISEE. State any restriction or condition imposed by the franchisor, whether by the terms of the franchise agreement or by other device or practice of the franchisor, whereby the franchisee is limited in the goods or services which he may offer to his customers.

State fully the obligation of the franchisee, whether by the terms of the franchise agreement or any other device or practice, to participate personally in the direct operation of the franchised business.

(9) OBLIGATIONS OF FRANCHISOR. State the obligations which the franchisor agrees, by contract or otherwise, to perform: (1) prior to the opening of the franchise business, and (2) during the operation of the franchise business.

When the obligations are to be completed by a certain date or within a specified time period, state the date or period. If the obligations previously mentioned are not performed, state the rights of the franchisee: (1) to any refund of monies paid or (2) to rescission of the franchise contract or other transaction related thereto.

Describe the method, if any, used by the franchisor to select the location for the franchisee's business.

Describe the training program, supervision, and assistance the franchisor will provide the franchisee, including:

(aa) The location, duration and content of the promised training program.

(bb) When the training program is to be conducted.

(cc) The amount of experience the instructors have had with the franchisor.

(dd) Who shall bear the expenses, including travel and living expenses, incurred in connection with the training program.

(ee) The number of and average length of training programs and refresher courses made available to the franchisee after the initial training period and whether the franchisee will be required to attend the same.

(10) ARRANGEMENTS WITH PUBLIC FIGURES. State any compensation or other benefit given or promised to a public figure arising, in

whole or in part, from the use of the public figure in the name or symbol of the franchise or the endorsement or recommendation of the franchise by the public figure in advertisements, and the extent to which such public figure is involved in the actual management of the franchisor.

State whether or not the franchisee has the ability to use the name of a public figure or celebrity in his promotional efforts and advertising and any charges to be made to the franchisee in connection with such usage.

For the purposes of this disclosure, "public figure" shall include any cartoon or fictionalized character.

(11) EXCLUSIVE AREA OR TERRITORY. State whether the franchisee or subfranchisor receives an exclusive area or territory. State whether the franchisor may establish another franchisee or a company owned operation within that area or territory.

State whether the franchisor specifies a defined area or territory within which it can conduct, or grant franchises for the conduct of, a limited number of franchised businesses.

State whether the franchisor or its parent or affiliate may establish other franchises or company owned operations selling or leasing similar products or services under a different commercial symbol within that area or territory.

State whether the continuation of the exclusivity of the grant is dependent upon the volume of sale generated or penetration of the potential market by the franchisee. State whether, and under what circumstances, the area or territory can be reduced.

If applicable, attach a map of the area or territory drawn to scale.

(12) OTHER FRANCHISES. State, as of the filing date of this statement, the following:

(aa) (i) The total number of franchises presently operating in the United States;

(ii) Of that number, the total number of franchises presently operating in the State of Minnesota;

(iii) If the franchisor owns or operates any of the outlets, the number of such operations shall be stated independently of the above.

(bb) The number of franchises in the United States and the State of Minnesota for which a business is not yet operational although a franchise agreement has been signed.

(cc) (i) Estimate the total number of franchises to be sold or granted in the United States for the twelve month period following the date of this statement.

(ii) Of that number, estimate the total number of franchises to be sold or granted in the State of Minnesota for the twelve month period following the date of this statement.

(dd) State that a list of the names, addresses, and business telephone numbers of all franchisees in the State of Minnesota will be given to the prospective franchisee immediately upon request and that the prospective

franchisee will be permitted to retain the list. The list of all franchisees in the State of Minnesota, as of the date of application, together with the date upon which the franchise agreement was signed by each, shall be filed with the Commissioner as a condition of registration.

(13) ESTIMATED OR PROJECTED OPERATIONS. A copy of any estimated or projected franchisee earnings, proforma statements, or "break even" statements prepared for presentation to prospective franchisees or subfranchisors. Include a statement setting forth the assumptions or data upon which the estimations or projections are based. This statement should clearly indicate such information as the number of operations involved, the length of time the operations were in business, the period covered by the data, and the ownership status of the operations (purely franchised versus owned, operated or controlled by the franchisor). All such estimations or projections shall indicate the percentage of the franchises not owned, controlled or operated by the franchisor which were in operation during the entire preceding twelve-month period which have, to the franchisor's knowledge, actually attained or surpassed that estimated or projected level.

(14) FRANCHISE CONTRACT. A copy of the entire franchise contract or agreement proposed for use, including all amendments thereto.

(15) FINANCIAL STATEMENTS. A copy of the financial statements which meet the requirements of SDiv 1704. These statements are to be an actual part of the public offering statement rather than contained in a separate document.

(e) When the franchises to be registered are proposed to be offered or sold by a subfranchisor or his agents, the application shall also include the same information concerning the subfranchisor as is required concerning the franchisor pursuant to this section.

(f) The last page of each public offering statement shall contain a detachable document acknowledging receipt of the public offering statement by the prospective franchisee.

(g) The Commissioner may accept as application for registration under Minn. Stat., 1973 Supplement, Chapter 80C any currently effective public offering statement prepared for compliance with the registration provisions of the franchise laws of such other jurisdictions as the Commissioner may, from time to time, designate. The Commissioner reserves the right to require alterations in such statements as he deems necessary to fulfill the requirements of Minn. Stat., 1973 Supplement, Chapter 80C.

(h) The Commissioner may accept as application for registration the Uniform Franchise Registration Application adopted by the Midwest Securities Commissioners Association; however, the Commissioner reserves the right to require alterations in the Uniform Franchise Offering Circular as he may deem necessary.

(i) There shall be on file with the Commissioner at all times a complete copy of the public offering statement amended to reflect the current status of the franchisor and in use in connection with the offer, grant or sale of the franchise registered.

SDiv 1707 (M.S. 80C.07). Amendment of registration

(a) "Material event" or "material change" shall include, but not be limited to, the following:

(1) The termination, closing or failure to renew by the franchisor during any consecutive three-month period after registration of (1) 10% of all franchises of the franchisor, regardless of location, or (2) 10% of the franchises of the franchisor located in the State of Minnesota.

(2) Any change in control, corporate name or state of incorporation, or reorganization of the franchisor.

(3) The purchase by the franchisor during any consecutive three-month period after registration of (1) 10% of its existing franchises, regardless of location, or (2) 10% of its existing franchises in the State of Minnesota.

(4) The commencement of any new product, service or model line involving, directly or indirectly, an additional investment in excess of 20% of the current average investment made by all franchisees or the discontinuation or modification of the marketing plan or marketing system of any product or service of the franchisor where the average total sales from such product or service exceed 20% of the average gross sales of the existing franchisees on an annual basis.

(5) Any change in the franchise fees charged by the franchisor.

(6) Any significant change in:

(aa) the obligations of the franchisee to purchase items from the franchisor or its designated sources; or

(bb) the limitations or restrictions on the goods or services which the franchisee may offer to his customer; or

(cc) the obligations to be performed by the franchisor; or

(dd) the franchise contract or agreement, including all amendments thereto.

(b) The occurrence of any of the events mentioned in (a) above shall necessitate the filing of a revised public offering statement.

(c) An application to amend the registration shall be made by submitting a facing page in the form described in SDiv 1704(b), accompanied by a revised public offering statement as indicated in (d) below and the $50 fee.

(d) The amended public offering statement filed in connection with an application to amend registration shall indicate by means of underscoring all alterations of the text of the public offering statement previously filed as a part of registration.

SDiv 1708 (M.S. 80C.08). Annual Report

(a) The registrant shall file an annual report by submitting a facing page in the form described in SDiv 1704(b), a public offering statement as indicated in (b) below and the $100 fee.

(b) The proposed public offering statement filed in connection with the annual report shall contain all data current as of the anniversary date including audited financial statements in accordance with SDiv 1704. All alterations in the text of the public offering statement previously filed as a part of registration shall be indicated by means of underscoring.

(c) No later than the 90th day following the end of the franchisor's fiscal year, the franchisor shall file financial statements in accordance with SDiv 1704. The newly filed financial statements are to be included in all public offering statements used by the franchisor after such filing date.

(d) "Payment of fee" shall mean the payment of the fee due for every year for which the registrant is delinquent in filing an annual report.

SDiv 1709 (M.S. 80C.09). Advertising

(a) Standards for advertisements offering a franchise subject to registration.

(1) No advertisement shall make reference to:

(aa) The acquiring of a franchise as a safe investment, as free from loss, default or failure, or that such is impossible or unlikely or as an assurance of earnings or profits.

(bb) Projections or statements of operations of or income from the operation of any franchise.

(cc) Any opinion of counsel without stating the name and address of such counsel.

(2) All advertisements must contain:

(aa) The name and address of the person using the advertisement or making the offer, including the name or the primary commercial symbol of the franchisor.

(bb) The registration number assigned to the offering by the Commissioner.

(b) Filing of advertisements.

(1) One copy of each advertisement intended for use shall be filed with the Commissioner at least three business days prior to the first publication thereof.

(2) If not disallowed by the Commisioner by written notice or otherwise within three business days from the date filed, the advertisement may be published.

(3) No formal approval of the advertisement shall be issued by the Commissioner.

(4) The person placing the advertisement shall be responsible for the accuracy and reliability of the advertisement and its conformity with the Act and this rule.

SDiv 1710 (M.S. 80C.10). Books, records, and accounts. Reserved for future use.

SDiv 1711 (M.S. 80C.11). Opinion, Appraisals and Reports. Reserved for future use.

SDiv 1712 (M.S. 80C.12). Denial, suspension or revocation of registrations or exemptions. Reserved for future use.

SDiv 1713 (M.S. 80C.13). Prohibited practices

(a) No person may promote, offer or grant participation in a chain distributor scheme, multi-level distribution scheme, or pyramid sales scheme as defined by Minnesota law.

(b) No person may make or cause to be made any statement or representation that:

(1) Other individuals are willing to enter into a franchise agreement substantially similar to that being offered, granted or sold without, at the same time, disclosing in writing the source of such information and the names, addresses, and telephone numbers of such individuals.

(2) The State of Minnesota or its agents or employees have:

(aa) Approved or endorsed the franchise or the franchisor.

(bb) Found the contents of any advertising is true and not misleading.

(cc) Determined that the promotion, advertisement, offer, grant or sale of the franchise complies with the applicable laws unless such is accomplished by a showing of an official record, to-wit: an order of registration.

(3) Execution of any document in connection with the offer, grant or sale of a franchise constitutes only an application for such franchise when, in fact, execution of the subject document or documents creates a binding obligation.

SDiv 1714 (M.S. 80C.14). Unfair practices. All franchise contracts or agreements and any other device or practice of a franchisor shall conform to the following provisions. It shall be "unfair and inequitable" for any person to:

(a) Restrict or inhibit, directly or indirectly, the free association among franchisees for any lawful purpose; or

(b) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any business dealing, unless any classification of or discrimination between franchisees is based on franchises granted at different times, geographic, market, volume or size differences, costs incurred by the franchisor, or other reasonable grounds considering the purposes of Minn. Stat., 1973 Supplement, Sections 80C.01 to 80C.22; or

(c) Compete with the franchisee in an exclusive territory or grant competitive franchises in the exclusive territory previously granted to another franchisee if the terms of the franchise agreement provide that an exclusive territory has been specifically granted to a franchisee; or

(d) Require a franchisee to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by Minn. Stat., 1973 Supplement, Section 80C.01 to 80C.22; provided, that this rule shall not bar the voluntary settlement of disputes; or

(e) Terminate or cancel a franchise without first having given written notice setting forth all the reasons for such termination or cancellation to the franchisee at least 60 days in advance of such termination or cancella-

tion, except that the notice shall be effective immediately upon receipt where the alleged grounds are:

(1) Voluntary abandonment of the franchise relationship by the franchisee; or

(2) The conviction of the franchisee in a court of competent jurisdiction of an offense directly related to the business conducted pursuant to the franchise; or

(3) Failure to cure a default under the franchise agreement which materially impairs the good will associated with the franchisor's tradename, trademark, service mark, logotype or other commercial symbol after the franchisee has received written notice to cure of at least 24 hours in advance thereof; or

(f) Terminate or cancel a franchise except for good cause which shall be defined as failure by the franchisee substantially to comply with those reasonable requirements imposed upon him by the franchise including, but not limited to, (1) the bankruptcy or insolvency of the franchisee; (2) assignment for the benefit of creditors or similar disposition of the assets of the franchise business; (3) voluntary abandonment of the franchise business; (4) conviction or a plea of guilty or no contest to a charge of violating any law relating to a franchise business; or (5) any act by or conduct of the franchisee which materially impairs the good will associated with the franchisor's trademark, tradename, service mark, logotype or other commercial symbol; or

(g) Impose on a franchisee by contract, rule or regulation, whether written or oral, any standard of conduct which is unreasonable; or

(h) Unreasonably withhold consent to any assignment, transfer, or sale of the franchise whenever the franchisee to be substituted meets the present qualifications and standards required of the franchisees of the particular franchisor; or

(i) Enforce any unreasonable covenant not to compete after the franchise relationship ceases to exist; or

(j) Require a franchisee to waive his rights to a trial or to consent to liquidated damages, termination penalties, or judgment notes; provided, that this rule shall not bar a voluntary arbitration of any matter if the proceeding is conducted by an independent tribunal under the rules of the American Arbitration Association; or

(k) Require a security deposit except for the purpose of securing against damage to property, equipment, inventory or leaseholds; or

(l) Require or prohibit any change in management or personnel of any franchisee unless the current or potential management or personnel fails to meet the present qualifications and standards required by the particular franchisor; or

(m) Fail to renew a franchise unless the franchisee has been given written notice of the intention not to renew at least 90 days in advance thereof and has been given a sufficient opportunity to recover his investment or unless for good cause as defined in clause (f).

SDiv 1715 (M.S. 80C.15). Investigations, proceedings. Reserved for future use.

SDiv 1716 (M.S. 80C16). Enforcement, penalties and remedies. Reserved for future use.

SDiv 1717 (M.S. 80C.17). Civil liability. Reserved for future use.

SDiv 1718 (M.S. 80C.18). Rules and Regulations

(a) False, fraudulent and deceptive practices. In connection with an offer, grant or sale of a franchise in this state, any person authorizing, aiding in, or causing such offer, grant or sale of franchises shall be deemed to be engaging in a "false, fraudulent or deceptive practice" within the meaning of Minn. Stat., 1973 Supplement, Sections 80C.12 and 80C.13, without limiting the authority of the Commissioner under Minn. Stat., 1973 Supplement, Sections 80C.12 or 80C.15, if such person:

(1) Applies, authorizes or causes to be applied any material part of the proceeds from the grant or sale of such franchises in any way contrary to the purpose specified in advertising or oral representations utilized in connection with the offer, grant or sale of such franchise or in the public offering statement required to be utilized in connection with the offer, grant or sale of the franchises.

(2) Makes or causes to be made any statement or representation:

(aa) Which is contrary to any disclosure made in the public offering statement; or

(bb) With regard to:

(i) Industry-wide total income representations or a portion thereof applicable to the prospective franchisee, whether actual or projected, for the product or service marketed by the franchisor without written disclosure of the relationship of such representations to the actual income experiences of the franchisor's existing franchised businesses; or

(ii) Projections of operations or of income or gross or net profits capable of being obtained from operation of the franchise by the franchisee without written disclosure of the number of the franchisor's existing franchised businesses that have, to the franchisor's knowledge, actually attained that projected level; or

(iii) The income experiences or net worth of the franchisor or its franchisees without written disclosure whether certified audited financial statements are available and, if so, from what source; or

(iv) The date by which a prospective franchisee's business will be totally operational without written disclosure of the basis on which that date has been determined; or

(v) Recovery of a portion or all of a franchise fee or other investment from the franchisor without written disclosure whether such fee or investment is secured or guaranteed, and, if so, in what manner; or

(vi) The nature and number of the locations appropriate for the franchisee's enterprise, whether or not to be obtained by the franchisor,

without disclosing in writing by whom such sites are to be secured, the manner by which their procurement is to be financed, the relationship between such site procurement and the execution of a franchise agreement and with whom the franchisor has a binding obligation for the procurement of such locations; or

(3) Fails to make the following representations:

(aa) When a relationship exists between the franchisor and any affiliate which has offered, is offering or will offer a franchise program substantially similar to that being offered, granted or sold, to state in writing the nature of such relationship and to disclose the similarity, if any, of the tradename, trademark, service mark, logotype, advertising, or commercial symbol or production or marketing plan of the affiliate to that of the franchise being offered, granted or sold; or

(bb) To state in writing the qualifications and experience which the prospective franchisee should possess in order to successfully operate the business which is the subject of the franchise offered or the additional personnel that will be required for the operation of the business if such qualifications and experience are not possessed by the prospective franchisee; or

(cc) Any representation required to be made in the public offering statement; or

(4) Misrepresents:

(aa) The number of similar franchises of the franchisor which are conducting business or have conducted business within a given area at any time; or

(bb) That the franchise agreement and all of its obligations is or are embodied in one or several documents presented to, made available to, or executed by the prospective franchisee when, in fact, the execution of additional documents or the giving by the franchisee of additional consideration is required to obtain the franchise or that execution of some of the documents is not related to or necessary for the acquisition of the franchise; or

(cc) Any element of a franchise agreement or the business of a franchisor or any material disclosures required to be made in the public offering statement; or

(dd) The date upon which the franchisee signed the franchise agreement or the receipt of the public offering statement.

(b) The Commissioner specifically recognizes the classification of motor vehicle fuel franchises and prescribes that the rules set forth hereafter shall apply only to that class.

(1) The provisions of SDiv 1706(d) shall not apply. The body of the public offering statement shall contain the following information:

(aa) A copy of the entire motor vehicle fuel franchise contract or agreement proposed for use, including all amendments thereto.

(bb) A summary of the obligations of the franchisor (hereafter referred to as supplier) and the franchisee (hereafter referred to as dealer) together with a summary of the agreement referred to in Clause (aa) above.

(cc) Any existing offer for the sale or other disposition of the location subject to the franchise agreement or negotiations which might result in an offer, sale or other disposition of the location.

(dd) Any existing agreement that would result in the demolition of or a major alteration of the condition of the location, or negotiations that would proceed an agreement to demolish or otherwise materially alter the condition of the location.

(ee) A statement disclosing the interest, and the nature thereof, enjoyed by the supplier in the location and, further, a disclosure of any other interest, and the nature thereof, enjoyed by any other person in said location.

(ff) Full disclosure of the total amount of any security deposits required, plus the amount of interest that shall be paid on any cash security deposit, and the conditions for the return of any security deposit.

(gg) The training program, if any, and the specific goods and services the supplier will provide for and to the dealer.

(hh) The gallonage volume history, if any, of the location under negotiation for and during the three-year period immediately past or for the entire period for which the location has been supplied by the supplier, whichever is shorter.

(ii) The name and last known address of the previous dealer or dealers for the last five years or for and during the entire period for which the location has been supplied by the supplier, whichever is shorter, and the reason or reasons of the supplier where an aforedescribed relationship has ended by cancellation under (4) below.

(2) The following information shall be filed with the Commissioner in connection with the registration:

(aa) Financial statements which comply with the provisions of SDiv 1704.

(bb) The names, addresses, and business telephone numbers of all the franchisees of the franchisor located in the State of Minnesota.

(3) The provisions of SDiv 1714 shall not apply. All motor vehicle fuel franchise agreements shall conform to the following provisions. A violation of any of these provisions shall be considered "unfair and inequitable".

(aa) The dealer shall have the unconditional right to cancel his franchise agreement until midnight of the seventh business day after the day on which the agreement was signed, by giving the supplier in person or by certified mail written notice of cancellation; provided, that any money, equipment, or merchandise loaned, sold or delivered to the dealer is returned to the supplier for full credit, or cash equivalent, together with delivery of full possession of the service station location, if leased from the supplier, to the supplier within ten days after delivery of notice;

(bb) The price at which the dealer sells products shall not be fixed or maintained by the supplier;

(cc) No dealer shall be required to use or utilize any promotion, premium, coupon, give-away, or rebate in the operation of the business. Except as otherwise provided by law, nothing herein shall be construed to prohibit

the dealer from voluntarily participating financially in a promotion, premium, coupon, give-away, or rebate sponsored by the supplier;

(dd) In the event of any termination or cancellation, whether by mutual agreement or otherwise, the supplier shall be required to purchase from the dealer within thirty days from the date of termination at the then current wholesale prices any and all merchantable products purchased by the dealer from the supplier; provided, however, that in the event of purchase, the supplier shall have the right to apply the proceeds against any existing indebtedness owed to him by the dealer and that the repurchase obligation is enforceable to the extent that there are not other valid claims or liens against the products by or on behalf of other creditors of the dealer;

(ee) No supplier shall unreasonably withhold its consent to any assignment, transfer, or sale of a franchise agreement;

(ff) No supplier shall restrict or inhibit, directly or indirectly, the right of free association among dealers for any lawful purpose;

(gg) No supplier shall require a dealer to assent to a release or waiver of the dealer's rights hereunder; the right of either party to trial by jury or the interposition of counterclaims or crossclaims shall not be waived by agreement of the parties; any agreement to the contrary is void;

(hh) The supplier may set forth in the franchise agreement the required number of hours per day and days per week that the dealer must maintain his retail outlet open for business; however, the supplier shall not unreasonably withhold consent to a modification of such requirements where dictated by changes of circumstances;

(ii) The supplier may set forth in the franchise agreement prohibitions and limitations on the conduct of any other business at the service station site by the dealer, including a charge for additional rent where another business is permitted and conducted; however, the supplier shall not:

(i) Unreasonably withhold its consent to the performance of another business; or

(ii) Impose unreasonable limitation on the dealer's ability to perform another business; or

(iii) Charge an unreasonable rent for the conduct of another business, considering the fair rental value of the site and any imposition upon the supplier's business.

(jj) Require a security deposit except for the purpose of securing against loss of or damage to real or personal property. Any security deposit required of the dealer may be satisfied by the deposit of cash or a pledge of a savings account or its equivalent in a Minnesota banking institution.

(4) Any provisions regarding cancellation of the franchise agreement shall be governed by the following rules:

(aa) A supplier shall not cancel a franchise agreement except for one or more of the following grounds:

(i) A mutual agreement between the parties;

(ii) The bankruptcy or insolvency of the dealer;

(iii) The dealer's failure to act in good faith in carrying out the terms of his franchise agreement with the supplier.

(iv) A good faith voluntary or involuntary decision by the supplier to discontinue doing business at the service station site;

(v) Decline in annual sales from the service station site below the figure set forth in the franchise agreement or otherwise agreed to by the parties in writing when the franchise agreement was signed. The foregoing shall not apply to declines that materially result from extrinsic physical changes, including, but not limited to, those resulting from highway construction, construction on the premises or changes in highway routes.

(bb) Cancellation of the franchise agreement by the supplier shall be preceded by written notice to the dealer in person or by certified mail. The notice shall be given at least sixty days prior to the date on which the supplier intends to terminate or cancel the franchise agreement, except that the notice shall be effective immediately upon receipt when the cause for termination or cancellation is: (1) criminal misconduct, (2) fraud, (3) abandonment, (4) bankruptcy or insolvency of the dealer, (5) adulteration of product or (6) the giving of a non-sufficient fund check which remains dishonored for a period of ten days after notice, which notice shall be effective on the fifth day after the date of mailing.

(5) Any provisions regarding the renewal of a franchise agreement shall be governed by the following rules:

(aa) Either party to a franchise agreement may refuse to renew the franchise agreement upon giving the other party written notice of his intent not to renew at least ninety days prior to the expiration of the franchise agreement.

(bb) Where the supplier and the dealer have been parties to one or more franchise agreements extending for three consecutive years, or where the dealer has been supplied the same brand name motor vehicle fuel for such period, or where the dealer has been in business as a motor vehicle fuel dealer in the same location for such period and the supplier has obtained the interest of the prior supplier to that location, the supplier shall either automatically renew the existing franchise agreement, or in good faith, offer another franchise agreement, different either in its terms or location. For the purposes of this rule, the three-year period shall be measured from the original date of commencement of any of the relationships mentioned above. However, this obligation of the supplier shall not apply where the supplier would have a right to cancel its relationship with the dealer under any of the provisions of (4) above.

(c) The Commissioner specifically recognizes the classification of motor vehicle franchises and prescribes that the rules set forth hereafter shall apply only to that class.

(1) The provisions of SDiv 1706(d), shall not apply. The body of the public offering statement shall contain the following information:

(aa) A copy of the entire franchise contract or agreement proposed for use, including all amendments thereto.

(2) The following information shall be filed with the Commissioner in connection with the registration and all annual reports:

(aa) Financial statements which comply with the provisions of SDiv 1704(c) through (h), including, but not limited to, a copy of financial statements prepared in accordance with the rules and regulations of the Securities and Exchange Commission. However, statements of a franchisor or its affiliated manufacturer which have been prepared in a country other than the United States shall be prepared according to the generally accepted accounting principles of such country, shall be stated in English, shall indicate American monetary equivalencies and shall be filed within 30 days of the date they are approved for use in such country.

(bb) The names, addresses, and business telephone numbers of all franchisees of the franchisor located in the State of Minnesota;

(3) The provisions of SDiv 1714 shall not apply. No franchisor, whether by means of a term or condition of a franchise or otherwise, shall engage in any of the following practices which are deemed unfair and inequitable:

(aa) Restricting or inhibiting, directly or indirectly, the right of free association among franchisees for any lawful purpose.

(bb) Requiring a franchisee to purchase or lease goods or services other than motor vehicles which are the subject of the franchise from the franchisor or from designated sources of supply unless and to the extent that the franchisor can satisfy the burden of proving that such restrictive purchasing requirements are reasonably necessary for a lawful purpose justifiable on business grounds and except for goods and services used in performing warranty, policy or campaign work for which the franchisee is compensated by the franchisor as provided by law.

(cc) Charging different prices to franchisees in the same line make for goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or price differences between franchisees is reasonable, and is based on proper and justifiable distinctions considering the purposes of Minn. Stat., 1973 Supplement, Chapter 80C.

(dd) Obtaining money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business, on account of such business, except for compensation for services rendered by the franchisor, unless such benefit is promptly accounted for and transmitted to the franchisee.

(ee) Competing with a franchisee in a relevant market area; provided that a franchisor shall not be deemed to be competing if it operates a franchise, either (1) temporarily for a reasonable period or (2) as a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price or (3) in a bona fide relationship in which an independent person has made a significant investment, subject to loss, in the franchise and can reasonably expect to acquire full ownership on reasonable terms and conditions.

(ff) Requiring a franchisee to assent to any condition, stipulation or provisions purporting to bind any person acquiring any franchise to waive compliance with any provision of Minn. Stat., 1973 Supplement, Chapter 80C. Nothing herein shall be construed to limit or prohibit good faith settlements of disputes when such settlements are voluntarily entered into between the parties.

(gg) Imposing on a franchisee by contract, rule or regulation, whether written or oral, any standard of conduct which is unreasonable.

(hh) Unreasonably withholding consent to any assignment, transfer or sale of the franchise or an interest therein, at a fair market value, including good will.

(ii) Requiring or prohibiting any change in personnel, other than a change in senior management; provided, that the franchisor shall not unreasonably withhold consent to a change in senior management.

(jj) Requiring a franchisee to waive his rights to trial or venue or to consent to liquidated damages, termination penalties, or judgment notes; provided that the franchisee may consent to arbitration conducted by an independent tribunal under the rules of the American Arbitration Association.

(kk) Making any charge against a franchisee for advertising or promotional advertising material without the prior consent of the franchisee.

(ll) Discontinuing a franchise without establishing within a reasonable time thereafter another franchisee in the same line make, provided that the trade area can reasonably support such a franchise.

(mm) Establishing an additional franchise in the area of sales and service responsibility designated by the franchisor to another franchisee of the same line make unless the franchisor shall give written notification to each franchisee in such line make within such area of its intention to establish such additional franchise and unless good cause can be shown for such addition.

(4) Notwithstanding the terms, provisions, or conditions of any franchise, a franchisor may terminate, cancel or fail to renew a franchise with a franchisee only in the manner and in accordance with the provisions of this rule.

(aa) **Notice.** Termination, cancellation or failure to renew shall be preceded by written notice to franchisee, setting forth the reasons for such action. Sixty (60) days' notice is required, except that fifteen (15) days' notice is required:

(i) In the case of abandonment by franchisee of the franchise business; or

(ii) where franchisee has been convicted by any court of competent jurisdiction of an offense which would reflect adversely on the franchised business or franchisor; or

(iii) in the event of the dissolution, liquidation or insolvency of franchisee.

(bb) **Good Cause.** A franchise may not be terminated, cancelled or not renewed except for "good cause" which shall be defined as failure of the franchisee to substantially comply with those reasonable requirements imposed upon the franchisee; provided, that the franchisee shall be given an opportunity, after reasonable written notice not to exceed six months, to cure any default involving the sales, services or facilities obligations under the franchise contract or agreement.

(cc) **Exception.** A franchisor may terminate a franchise for a particular line make of motor vehicle:

(i) if the franchisor discontinues that line make, or

(ii) if the franchisee's license as a motor vehicle dealer is revoked pursuant to Minnesota Statutes, Chapter 168.

(d) The Commissioner specifically recognizes the classification of hardware franchises and prescribes that the rules set forth hereafter shall apply only to that class.

(1) The provisions of SDiv 1706(d)(4) and SDiv 1706(d)(13) shall not apply. In lieu thereof, the public offering statement shall contain the following items:

INVESTMENT BY THE FRANCHISEE. State any fees, payments or charges associated with preparation for entrance into the franchise. State to whom the payments are due, when the payments are due, and the method by which the payments are to be made.

Estimate the minimum expenditures, if any, for the following items which prospective franchisees should make in order to maintain the franchise relationship:

(aa) fixed assets, whether or not financed by contract or installment purchase, leasing or otherwise;

(bb) working capital, deposits, and prepaid expenses;

(cc) all other goods or services, including inventory, which the franchisee shall purchase or lease.

(2) Any estimation or projection of franchisee earnings, proforma statement or break even statement prepared for presentation to prospective franchisees or subfranchisors shall include a statement setting forth the assumptions or data upon which the estimations or projections are based. This statement should clearly indicate such information as the number of operations involved, the length of time the operations were in business, the period covered by the data, and the ownership status of the operations (purely franchised versus owned, operated or controlled by the franchisor). All such estimations or projections shall indicate the percentage of the franchises not owned, controlled or operated by the franchisor which were in operation during the entire preceding twelve-month period which have, to the franchisor's knowledge, actually attained or surpassed that estimated or projected level.

(e) The Commissioner specifically recognizes the classification of franchises, other than those specifically classified elsewhere in SDiv 1718, which require that the franchisee make an initial, unfinanced investment in excess of $200,000, and prescribes that the rules set forth hereafter shall apply only to that class.

(1) The provisions of SDiv 1706(d)(6), (7), (8), (9), (10), (11), (12), (13), and (15) shall not apply.

(2) The following information shall be filed with the Commissioner in connection with the registration:

(aa) Financial statements which comply with the provisions of SDiv 1704.

(bb) The names, addresses, and business telephone numbers of all the franchisees of the franchisor located in the State of Minnesota.

(f) Interpretive opinions issued by the Commissioner pursuant to Minn. Stat., 1973 Supplement, Section 80C.18 shall be applicable only to the transaction identified in the request thereafter, and may not be relied upon in connection with any other transaction. The burden of proving an exemption or exception to any definition is upon the person claiming it; therefore, the request shall clearly set forth the basis upon which non-applicability of the act is contended and shall be accompanied by all pertinent documentation.

SDiv 1719 (M.S. 80C.19). Scope. Reserved for future use.

SDiv 1720 (M.S. 80C.20). Service of Process. Every consent to service of process shall be made in the following form:

CONSENT TO SERVICE OF PROCESS

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, _____,

(a corporation organized under the laws of the State of _____)

(a partnership) (an individual) (other _____)

for the purpose of complying with Minnesota Statutes, 1973 Supplement, Chapter 80C, relating to franchises hereby irrevocably appoints the Commissioner of Securities, and the successors in such office, its attorney in the State of Minnesota upon whom may be served any notice, process or pleading in any civil action or proceeding against it, its successor, executor or administrator which arises under the aforesaid laws of said State or any rule or order thereunder; and the undersigned does hereby consent that any such action or proceeding against it may be commenced in any court of competent jurisdiction and proper venue within said State by service of process upon said officer with the same effect as if the undersigned, its successor, executor or administrator had personally been served with process in said State.

It is requested that a copy of any notice, process or pleading served hereunder be mailed to:

(Name and Address)

Dated: _____, 19__

By_____

Title_____

By_____

Title_____

Subscribed and sworn to before me this

_____ day of _____, 19__.

Notary Public, _____ County _____

My Commission expires: _____

SDiv 1721 (M.S. 80C.21). Waivers void. Reserved for future use.

SDiv 1722 (M.S. 80C.22). Administration

(a) The following charges shall be made for copies of documents furnished by the Commissioner and for certification thereof:

(1) Fifty cents for each certificate under seal affixed thereto, plus fifty cents for each page or fraction thereof to be certified, whether the copies to be certified are furnished by the person requesting the certification or by the Commissioner.

(2) Fifty cents for each page or fraction thereof when the copies are not to be certified.

Filed January 13, 1975.

Minnesota Department of Commerce

SECURITIES AND REAL ESTATE DIVISION RULES

SDiv 2000 (a) It shall constitute a "device, scheme, or artifice to defraud" for an investment adviser, directly or indirectly, to publish, circulate or distribute any advertisement:

(1) Which refers, directly or indirectly, to any testimonial of any kind concerning the investment adviser or concerning any advice, analysis, report or other service rendered by such investment adviser; or

(2) Which refers, directly or indirectly, to past specific recommendations of such investment adviser which were or would have been profitable to any person; provided, however, that this shall not prohibit an advertisement which sets out or offers to furnish a list of all recommendations made by such investment adviser within the immediately preceding period of not less than one year if such advertisement and such list, if it is furnished separately:

(aa) states the name of each such security recommended, the date and nature of each such recommendation (for example, whether to buy, sell or hold), the market value at that time, the price at which the recommendation was to be acted upon, and the market price of each such security as of the most recent practicable date, and

(bb) contains the following cautionary legend on the first page thereof in print or type as large as the largest print or type used in the body or text thereof: "It shall not be assumed that recommendations made in the future will be profitable or will equal the performance of the securities in this list.";

(3) Which represents, directly or indirectly, that any graph, chart, formula or other device being offered can in and of itself be used to determine which securities to buy or sell, or when to buy or sell them; or which represents directly or indirectly, that any graph, chart, formula or other device being offered will assist any person in making his own decisions as to which securities to buy or sell, or when to buy or sell them, without prominently disclosing in such advertisement the limitations thereof and the difficulties with respect to its use;

(4) Which contains any statement to the effect that any report, analysis or other service will be furnished free or without charge, unless such report, analysis or other service actually is or will be furnished entirely free and without any condition or obligation, directly or indirectly; or

(5) Which contains any untrue statement of a material fact or which is otherwise false or misleading.

(b) For the purposes of this regulation the term "advertisement" shall include any notice, circular, letter or other written communication given to more than one person, or any notice or other announcement, any publication or by radio or television, which offers:

(1) any analysis, report or publication concerning securities, or which is to be used in making any determination as to when to buy or sell securities, or

(2) any graph, chart, formula or other device to be used in making

any determination concerning when to buy or sell any security, or which security to buy or sell, or

(3) any other investment advisory service with regard to securities.

SDiv 2001 It is unlawful for any investment adviser to enter into, extend or renew any investment advisory contract which:

(a) provides for compensation to the investment adviser which is based upon or measured by profits accrued or to accrue from transactions recommended or carried out by the investment adviser, or which is based upon a share of capital gains or upon capital appreciation of the funds or any portion of the funds of the client. This shall not be construed to prohibit charges based upon the total value of the assets under management averaged over a definite period, or as of definite dates, or taken as of a definite date, nor charges based upon the performance of the managed assets as compared to an established index;

(b) fails to provide, in writing, that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract. "Assignment," as used herein, includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business; or

(c) fails to provide in writing that the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within 30 business days after such change.

As used in this section, "investment advisory contract" means any contract or agreement whereby a person agrees to act as an investment adviser or to manage any investment or trading account for a person other than an investment company as defined in the Investment Company Act of 1940.

SDiv 2002 It is unlawful for any investment adviser to take or have custody of any funds or securities in which any client has a beneficial interest unless:

(a) All such securities of each such client are segregated, marked to identify the particular client who has the beneficial interest therein, and held in safekeeping in some place reasonably free from risk of destruction or other loss; and

(b) (1) All such funds of such clients are deposited in one or more bank accounts which contain only clients' funds;

(2) Such account or accounts are maintained in the name of the investment adviser as agent or trustee for such clients; and

(3) The investment adviser maintains a separate record for each such account which shows the name and address of the bank where such account is maintained, the dates and amounts of deposits in and withdrawals from such account, and the exact amount of each client's beneficial interest in such account; and

(c) Such investment adviser, immediately after accepting custody or possession of such funds or securities from any client, notifies such client in writing of the place and manner in which such funds or securities will be maintained, and thereafter, if and when there is any change in the place or manner in which such funds or securities are being maintained, gives each such client written notice thereof; and

(d) Such investment adviser sends to each client, not less frequently than once every three months, an itemized statement showing the funds and securities in the custody or possession of the investment adviser at the end of such period, and all debits, credits and transactions in such client's account during such period; and

(e) All such funds and securities of clients are verified by actual examination at least once during each calendar year by an independent certified public accountant. A certificate of such accountant stating that he has made an examination of such funds and securities, and describing the nature and extent of such examination, shall be filed with the Commissioner promptly after such examination.

(f) This regulation (SDiv 2002) shall not apply to an investment adviser also registered as a broker-dealer under Section 15 of the Securities Exchange Act of 1934 if (1) such broker-dealer is subject to and in compliance with Rule 15c3-1 (Reg. 240.15c3-1) under the Securities Exchange Act of 1934, or

(2) such broker-dealer is a member of an exchange whose members are exempt from Rule 15c3-1 under the provisions of paragraph (b)(2) thereof, and such broker-dealer is in compliance with all rules and settled practices of such exchange imposing requirements with respect to financial responsibility and the segregation of funds or securities carried for the account of customers.

SDiv 2003 It shall constitute a "manipulative or deceptive device or contrivance" within the meaning of Minnesota Statutes, Section 80A.03 for any broker-dealer or agent who is an underwriter in connection with a distribution of securities to fail to make a bona fide distribution of the securities at the public offering price of securities of a public offering which immediately trades at a premium in the secondary market. An underwriter does not make a "bona fide distribution to the public" within the meaning of this section when he, or any person associated with him:

(a) Continues to hold any of the securities in his own account or in the account of any person associated with him;

(b) Sells any of the securities to any officer, director, general partner, employee or agent of the underwriter or of any other broker-dealer, or to a person associated with the underwriter or with any other broker-dealer, or to a member of the immediate family of any such person;

(c) Sells any of the securities to a person who is a finder in respect to the public offering or to any person acting in a fiduciary capacity to the managing underwriter, including, among others, attorneys, accountants and financial consultants, or to a member of the immediate family of any such person;

(d) Sells any securities to any senior officer of a bank, savings and loan association, insurance company, registered investment company, registered investment advisory firm or any other institutional type account, domestic or foreign, or to any person in the securities department of, or to any employee or any other person who may influence or whose activities directly or indirectly involve or are related to the function of buying or selling securities for any bank, savings and loan association, insurance company, registered investment company, registered investment company, registered investment advisory firm, or other institutional type account, domestic or foreign, or to a member of the immediate family of any such person;

(e) Sells any securities to any account in which any person specified in paragraphs (a), (b), (c) or (d) hereof has a beneficial interest. Provided, however, an underwriter may sell part of his securities acquired as described above to:

(1) persons enumerated in paragraphs (c) or (d) hereof; and

(2) members of the immediate family or persons enumerated in paragraph (b) hereof provided that such person enumerated in paragraph (b) does not contribute directly or indirectly to the support of such member of the immediate family; and

(3) any account in which any person specified under paragraph (c), (d) or (e) above has a beneficial interest; if the broker-dealer or agent is prepared to demonstrate that the securities were sold to such persons in accordance with their normal investment practice with the broker-dealer or agent, that the aggregate of the securities so sold is insubstantial and not disproportionate in amount as compared to sales to members of the public and that the amount sold to any one of such persons is insubstantial in amount;

(f) Sells any of the securities, at or above the public offering price, to any other broker-dealer; provided, however, an underwriter may sell all or part of the securities acquired as described above to another broker-dealer upon receipt from the latter assurance in writing that such purchase would be made to fill orders for bona fide public customers, other than those enumerated in paragraphs (a), (b), (c), (d) or (e) above, at the public offering price as an accommodation to them and without compensation for such;

(g) Sells any of the securities to any domestic bank, domestic branch of a foreign bank, trust company or other conduit for an undisclosed principal unless written assurance is received from such bank, trust company or conduit certifying that the purchase in each case is not made for the benefit of any person enumerated in paragraphs (a) through (f) hereof;

(h) For purposes of this rule, the term "any person associated with him (an underwriter) " shall mean any officer, director, partner or

branch manager of an underwriter, or any person occupying a similar status or performing similar functions, or any natural person directly or indirectly controlling or controlled by such underwriter (other than employees whose functions are clerical or ministerial).

SDiv 2004 (a) It shall constitute a "manipulative or deceptive device or contrivance" within the meaning of Minnesota Statutes, Section 80A.03, for any person, directly or indirectly, in connection with the offer or sale of any security, to make any representation:

(1) To the effect that the security is being offered or sold on an "all or none" basis, unless the security is part of an offering or distribution being made on the condition that all or a specified amount of the consideration paid for such security will be promptly refunded to the purchaser unless (aa) all of the securities being offered are sold at a specified price within a specified time, and

(bb) the total amount due to the seller is received by him by a specified date; or

(2) To the effect that the security is being offered or sold on any other basis whereby all or part of the consideration paid for such security will be refunded to the purchaser if all or some of the securities are not sold, unless the security is part of an offering or distribution being made on the condition that all or a specified part of the consideration paid for such security will be promptly refunded to the purchaser unless (aa) a specified number of units of the security are sold at a specified price within a specified time, and

(bb) the total amount due to the seller is received by him by a specified date.

(b) This rule shall not apply to any offer or sale of securities as to which the seller has a firm commitment from an underwriter (subject only to customary conditions precedent, including "market outs") for the purchase of all the securities being offered.

SDiv 2005 It shall constitute a "fraudulent or deceptive device or contrivance" within the meaning of Minnesota Statutes, Section 80A.03, for any person to:

(a) represent in the offer or sale of securities, either directly or by implication, in writing or orally, that there is a guarantee against risk or loss;

(b) induce excessive trading in a customer's account, or induce trading beyond the customer's known financial resources;

(c) effect transactions in the account of a customer without his knowledge or maintain discretionary accounts without written authorization;

(d) engage or aid in "boiler room" operations or high pressure tactics in connection with the promotion of speculative offerings or "hot issues" by means of an intensive telephone campaign or unsolicited calls to persons not known by or having an account with the salesmen or broker-dealer represented by him, whereby the prospective purchaser is

encouraged to make a hasty decision to invest, irrespective of his investment needs and objectives;

(e) charge, pay or receive commissions, selling charges, expenses or any other kind of remuneration greater than those authorized for the particular types of securities involved in connection with registered offerings under SDiv. 2034 of these rules; provided, however, that this paragraph (e) shall not apply to the sale, by an issuer, of a security exempted by Section 80A.15, Subdivision 2(a);

(f) use information about an issuer, learned from the issuer's officers, directors or key employees, which is not generally available to the public and which would significantly affect the market price of the issuer's securities for personal benefit, directly or indirectly, in the offer, sale or purchase of the issuer's securities;

(g) create an atmosphere of false supply or demand or engage in market manipulations;

(h) create unreasonable delays in delivering securities;

(i) representing that securities will be listed on a national exchange or that application for listing will be made, without any basis in fact for such representation;

(j) selling or soliciting the purchase of one security conditioned upon the customer's agreement to purchase another security.

SDiv 2006 (a) It shall constitute a "manipulative, deceptive, or other fraudulent device or contrivance," within the meaning of Minnesota Statutes, Section 80A.03, for any broker-dealer to furnish or submit, directly or indirectly, any quotation for a security to an inter-dealer-quotation-system unless:

(1)the inter-dealer-quotation-system is informed, if such is the case, that the quotation is furnished or submitted;

(aa) by a broker-dealer acting for the account of or on behalf of another broker-dealer, and if so, the identity of such other broker-dealer; and/or

(bb) in furtherance of one or more other arrangements (including a joint account, guarantee of profit, guarantee against loss, commission, markup, markdown, indication of interest and accommodation arrangement) between or among broker-dealers, and if so, the identity of each broker-dealer participating in any such arrangement or arrangements; provided, however, that the provisions of this subparagraph shall not apply if only one of the broker-dealers participating in any such arrangement or arrangements furnishes or submits a quotation with respect to the security to an inter-dealer-quotation-system.

(2) The inter-dealer-quotation-system to which the quotation is furnished or submitted makes it a general practice to disclose with each published quotation, by appropriate symbol or otherwise, the category or categories (subparagraphs (1)(aa) and/or (1)(bb) in furtherance of which the quotation is submitted, and the identities of all other broker-dealers referred to in subparagraphs (1)(aa) and (1)(bb) where such

information is supplied to the inter-dealer-quotation-system under the provisions of paragraph (1) of this rule.

(b) It shall constitute a "manipulative, deceptive or other fraudulent device or contrivance" within the meaning of Minn. Stat. § 80A.03 (1978), as amended, for a broker-dealer or agent to recommend the purchase or sale of any security or to furnish any quotation for a security or, directly or indirectly, to submit any such quotation for publication, in any quotation medium (as defined in this rule) unless:

(1) the issuer has filed a registration statement under Minn. Stat. §§ 80A.09, 80A.10 or 80A.11 (1978), as amended, which became effective less than 90 calendar days prior to the day on which such broker-dealer or agent publishes or submits the quotation to the quotation medium, provided that such registration statement has not thereafter been the subject of a stop order which is still in effect when the quotation is published or submitted, and such broker-dealer has in his records a copy of the prospectus or offering circular used in connection with the registration, or
[amended, effective 2-21-81]

(2) (aa) the issuer is required to file reports pursuant to Section 80A.12, Subd. 8 and the Rules thereunder; and

(bb) the broker-dealer has a reasonable basis for believing that the issuer is current in filing the reports required to be filed by Section 80A.12, Subd. 8 and the Rules thereunder; and

(cc) the broker-dealer has in his records the issuer's reports filed pursuant to Section 80A.12, Subd. 8 and the Rules thereunder covering the most recent eighteen (18) months or such shorter period as the issuer has filed such reports; or

(3) such broker-dealer has in his records, and shall make reasonably available upon request to any person expressing an interest in a proposed transaction in the security with such broker-dealer, the following information (which shall be reasonably current in relation to the day the quotation is submitted), which he has no reasonable basis for believing is not true and correct or reasonably current, and which was obtained by him from sources which he has a reasonable basis for believing are reliable: (aa) the exact name of the issuer and its predecessor (if any);

(bb) the address of its principal executive offices;

(cc) the state of incorporation, if it is a corporation;

(dd) the exact title and class of the security;

(ee) the par or stated value of the security;

(ff) the number of shares or total amount of the securities outstanding as of the end of the issuer's most recent fiscal year;

(gg) the name and address of the transfer agent;

(hh) the nature of the issuer's business;

(ii) the nature of products or services offered;

(jj) the nature and extent of the issuer's facilities;

(kk) the name of the chief executive officer and members of the board of directors;

(ll) the issuer's most recent balance sheet and profit and loss and retained earnings statements;

(mm) similar financial information for such part of the two preceding fiscal years as the issuer or its predecessor has been in existence;

(nn) whether the broker-dealer or any associated person is affiliated, directly or indirectly with the issuer;

(oo) whether the quotation is being published or submitted on behalf of any other broker-dealer, and, if so, the name of such broker-dealer; and

(pp) whether the quotation is being submitted or published directly or indirectly on behalf of the issuer, or any director, officer or any person, directly or indirectly the beneficial owner of more than 10 per cent of the outstanding units or shares of any equity security of the issuer, and, if so, the name of such person, and the basis for any exemption under Sections 80A.01 to 80A.31 for any sales of such securities on behalf of such person. If such information is made available to others upon request pursuant to this subparagraph, such delivery, unless otherwise represented, shall not constitute a representation by such broker-dealer that such information is true and correct, but shall constitute a representation by such broker-dealer that the information is reasonably current in relation to the day the quotation is submitted, that he has no reasonable basis for believing the information is not true and correct, and that the information was obtained from sources which he has a reasonable basis for believing are reliable.

(c) With respect to any security the quotation of which is within the provisions of this rule, the broker-dealer submitting or publishing such quotation, shall maintain in his records information regarding all circumstances involved in the submission of publication of such quotation, including the identity of the person or persons for whom the quotation is being submitted or published and any information regarding the transaction provided to the broker-dealer by such person or persons.

(d) The broker-dealer shall maintain in writing as part of his records the information described in paragraphs (b) and (c), and any other information (including adverse information) regarding the issuer which comes to his knowledge or possession before the publication or submission of the quotation, and preserve such records for the periods specified in Section 80A.06, Subd. 1, or any Rule thereunder.

(e) For any security of an issuer included in paragraph (b)(3), the broker-dealer submitting the quotation shall furnish to the inter-dealer-quotation-system (as defined below), in such form as such system shall prescribe, at least 2 days before the quotation is published or submitted, the information regarding the security and the issuer which such broker-dealer is required to maintain pursuant to said paragraph (b)(3).

(f) For purposes of this rule:

(1) "Quotation medium" shall mean any "inter-dealer-quotation-

system" or any publication or electronic communications network or other device which is used by broker-dealers to make known to others their interest in transactions in any security, including offers to buy or sell at a stated price or otherwise, or invitations of offers to buy or sell.

(2) "inter-dealer-quotation-system" shall mean any system of general circulation to broker-dealers which regularly disseminates quotations of identified broker-dealers.

(3) except as otherwise specified in this rule, "quotation" shall mean any bid or offer at a specified price with respect to a security.

(g) The provisions of this rule shall not apply to:

(1) the publication or submission of a quotation respecting a security which has been the subject of both bid and ask quotations in an inter-dealer-quotation-system at specified prices on each of at least twelve days within the previous thirty calendar days, with no more than four business days in succession without such a two-way quotation.

(h) The requirement in subparagraph (b)(3) that the information with respect to the issuer be "reasonably current" will be presumed to be satisfied, unless the broker-dealer has information to the contrary, if:

(1) the balance sheet is as of a date less than 16 months before the publication or submission of the quotation, the statements of profit and loss and retained earnings are for the 12 months preceding the date of such balance sheet, and if such balance sheet is not as of a date less than 6 months before the publication or submission of the quotation, it shall be accompanied by additional statements of profit and loss and retained earnings for the period from the date of such balance sheet to a date less than 6 months before the publication or submission of the quotation.

(2) other information regarding the issuer specified in subparagraph (b)(3) is as of a date within 12 months prior to the publication or submission of the quotation.

(i) This rule shall not prohibit any publication or submission of any quotation if the Commissioner, upon written request or upon his own motion, exempts by order such quotation either unconditionally or on specified terms and conditions, as not constituting a fraudulent, manipulative or deceptive practice comprehended within the purpose of this rule.

(j) (1) It shall constitute a fraudulent and dishonest practice for a broker-dealer to enter into any correspondent or other arrangement (including a joint account, guarantee of profit, guarantee against loss, commission, markup, markdown, indication of interest and accommodation arrangement) in furtherance of which two or more broker-dealers furnish or submit quotations with respect to a particular security unless such broker-dealer informs all broker-dealers furnishing or submitting such quotations of the existence of such correspondent and other arrangements, and the identity of the parties thereto.

(2) For the purpose of the above (j)(1):

(aa) the term "inter-dealer-quotation-system" shall mean any system of general circulation to broker-dealers which regularly disseminates quotations of identified broker-dealers.

(bb) the term "quotation" shall mean any bid or offer, or any indication of interest (such as OW or BW) in any bid or offer.

(cc) the term "correspondent" shall mean a broker-dealer who has a direct line of communication to another broker-dealer located in a different city or geographic area.

SDiv 2007 The following shall constitute "manipulative, deceptive, or other devices or contrivances" within the meaning of Minnesota Statutes, Section 80A.03:

(a) any act of any broker-dealer designed to effect with or for the account of a customer any transaction in, or to induce the purchase or sale by such customer of, any security (other than United States Tax Savings Notes, United States Defense Savings Stamps, or United States Defense Savings Bonds, Series E, F and G) unless such broker-dealer, at or before the completion of each such transaction, gives or sends to such customer written notification disclosing:

(1) where he is acting as a broker for such customer, as a dealer for his own account, as a broker for some other person, or as a broker for both such customer and some other person; and

(2) in any case in which he is acting as a broker for such customer or for both such customer and some other person, either the name of the person from whom the security was purchased or to whom it was sold for such customer and the date and time when such transaction took place or the fact that such information will be furnished upon the request of such customer, and the source and amount of any commission or other remuneration received or to be received by him in connection with the transaction.

(b) any act of any broker-dealer or agent controlled by, controlling or under common control with, the issuer of any security, designed to effect with or for the account of a customer any transaction in, or to induce the purchase or sale by such customer of, such securities unless such broker-dealer or agent, before entering into any contract with or for such customer for the purchase or sale of such security, discloses to such customer the existence of such control, and unless such disclosure, if not made in writing, is supplemented by the giving or sending or written disclosure at or before the completion of the transaction.

(c) any act of any broker-dealer who is acting for a customer or for both such customer and some other person, or of any broker-dealer who receives or has promise of receiving a fee from a customer for advising such customer with respect to securities, designed to effect with or for the account of such customer any transaction in, or to induce the purchase or sale by such customer of, any security in the distribution of which such broker-dealer is participating or is otherwise financially interested unless such broker-dealer, at or before the completion of such transaction, gives or sends to such customer written notification of the existence of such participation or interest.

(d) any act of any broker-dealer designed to effect with or for any customer's account in respect to which such broker-dealer or his agent or employee is vested with any discretionary power any transaction of purchase or sale unless immediately after effecting such transaction

such broker-dealer makes a record of such transaction, which record includes the name of such customer, the name, amount and price of the security, and the date and time when such transaction took place. In addition, such broker-dealer shall send each month to each customer in whose account such broker-dealer exercises any discretionary authority, an itemized statement showing the funds and securities in the custody or possession of the broker-dealer at the end of such period, and all debits, credits, and transactions in such client's account during such period.

(e) any representation made to a customer by a broker-dealer who is participating or otherwise financially interested in the distribution of any security which is not admitted to trading on a national securities exchange that such security is being offered to such customer "at the market" or at a price related to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created or controlled by him, or by any person for whom he is acting or with whom he is associated in such distribution, or by any person controlled by, controlling or under common control with him.

(f) the use of financial statements purporting to give effect to the receipt and application of any part of the proceeds from the sale or exchange of securities, unless the assumptions upon which each such financial statement is based are clearly set forth as part of the caption to each such statement in type at least as large as that used generally in the body of the statement.

SDiv 2008 "Broker-dealers" are affiliated by direct common control, for the purpose of Minnesota Statutes, Section 80A.04, Subd. 2, when eighty percent or more of the equity of each broker-dealer is beneficially owned by the same person or group of persons.

SDiv 2009 Upon termination of the activities of a licensed person, the broker-dealer or issuer shall, within ten business days, notify the Commissioner in writing of the termination stating the reason therefor.
[amended, effective 2-21-81]

SDiv 2010 "Successor" for the purpose of Minn. Stat. § 80A.05, Subd. 2 (1978), as amended, includes any person succeeding to the business of a licensed broker-dealer or investment adviser under the following circumstances:

(a) When a licensee is a partnership, a change in the membership of the partnership occurs which, under the law of the jurisdiction in which such partnership is formed, results in the creation of a new legal entity. This paragraph shall not apply, however, if more than one-half of the members of the predecessor partnership are no longer partners after such change in partnership;

(b) When a partnership or individual incorporates or otherwise changes its form of legal organization;

(c) When an entity formed under the laws of the particular jurisdiction changes the jurisdiction in which it is incorporated, organized or formed;

(d) When a licensee changes its name; or

(e) Upon the consolidation or merger of a licensee, or in the case of the acquisition of substantially all of the assets of a licensee, unless the transactions are entered into for the purpose of evading the operation of the licensing requirement.
[amended, effective 2-21-81]

SDiv 2011 (a) No person shall be issued a broker-dealer or investment adviser's license unless at least one person employed full-time in a supervisory capacity, by the applicant for such license, shall have been actively engaged in the securities business in a similar supervisory capacity for a minimum of three of the preceding five years, or shall have had substantially equivalent experience, satisfactory to the Commissioner.

(b) No person shall be issued a broker-dealer or investment adviser's license if any employee of such person was an officer, supervisor, or owner of 10% or more of the securities of, any firm liquidated under the Securities Investor Protection Act of 1970, unless good cause, satisfactory to the Commissioner, be shown that the issuance of the license would be in the public interest.

(c) The provisions of paragraph (a) of this section do not apply to any broker-dealer meeting all of the following conditions:

(1) His dealer transactions (as principal for his own account) are limited to the purchase, sale and redemption of redeemable shares of registered investment companies, except that a broker-dealer transacting business as a sole proprietor may also effect occasional transactions in other securities for his own account with or through another registered broker-dealer;

(2) His transactions as broker (agent) are limited to:

(aa) The sale and redemption of redeemable securities of registered investment companies;

(bb) The solicitation of share accounts insured by an instrumentality of the United States;

(cc) The sale of securities for the account of the customer to obtain funds for immediate reinvestment in redeemable securities of registered investment in redeemable securities of registered investment companies; and

(3) He promptly transmits all funds and delivers all securities received in connection with his activities as a broker-dealer, and does not otherwise hold funds or securities for, or owe money or securities, to customers.

(d) As a condition of being granted a license, every broker-dealer or investment adviser shall inform the Commissioner of Securities and Real Estate that it has complied with the requirements set forth in Minn. Stat. Ch. 345 relating to unclaimed property.
[1978]

SDiv 2012 (a) No license shall be issued by the Commissioner after the effective date of this regulation for a broker-dealer or investment adviser unless each partner, officer or director, or person occupying a similar status or performing similar functions shall have successfully passed such examinations as the Commissioner may prescribe. The Commissioner may waive the requirement of this section for any partner, officer or director, or person occupying a similar status or performing similar functions who has satisfactorily completed an examination for principals given by the New York Stock Exchange, the National Association of Securities Dealers Inc., or the Securities and Exchange Commission. The Commissioner may waive the requirement of this section for any partner, officer or director who represents to the Commissioner in writing that he will not be engaged in the sale of securities, the business of advising others concerning the value of securities in this State.

(b) No agent's license shall be issued by the Commissioner after the effective date of this regulation unless the applicant shall have successfully completed such examinations as the Commissioner may prescribe. The Commissioner may waive the requirement of this section for any applicant who has successfully completed a written examination given by the New York Stock Exchange, the National Association of Securities Dealers Inc., or the Securities and Exchange Commission.

(c) Any broker-dealer, agent or investment adviser whose most recent license has been terminated for a period of two years or more immediately preceding the filing of a new application and who has not been actively engaged as a broker-dealer or agent respectively during that period shall be required to satisfactorily complete an examination prescribed by the Commissioner, or an examination for principals or agents respectively given by the New York Stock Exchange, the National Association of Securities Dealers Inc., or the Securities and Exchange Commission.
[amended, effective 2-21-81]

SDiv 2013 (a) Every broker-dealer shall have and maintain the following net capital requirements:

(1) his aggregate indebtedness to all other persons shall not exceed 15 times his net capital; and

(2) his net capital shall not be less than $25,000.

(b) (1) The provisions of paragraph (a) of this rule shall not apply to any broker-dealer:

(aa) whose dealer transactions (as principal for his own account) are limited to the purchase, sale and redemption of redeemable shares of registered investment companies so long as his transactions as broker (agent) are limited to:

(i) the sale and redemption of redeemable securities of registered investment companies;

(ii) the solicitation of share accounts insured by an instrumentality of the United States;

(iii) the sale of securities for the account of a customer to obtain funds for immediate reinvestment in redeemable securities of registered investment companies; and

(iv) the sale of limited partnership interests; and he maintains a net capital of not less than $5,000; or

(bb) who promptly transmits all funds and delivers all securities received in connection with his activities as a broker-dealer, and does not otherwise hold funds or securities for, or owe money or securities to, customers; and he maintains a net capital of not less than $5,000; or

(cc) who the Commissioner has, upon written application, exempted from the provisions of this rule, either unconditionally or on specified terms and conditions, because of the special nature of his business, his financial position, and the safeguards he has established for the protection of customers' funds and securities.

(2) The provisions of paragraph (a) of this rule shall not apply to any member in good standing and subject to the capital rules of the Midwest Stock Exchange, the American Stock Exchange or the New York Stock Exchange, if the rules, settled practices and applicable regulatory procedure of those exchanges are deemed by the Commissioner to impose requirements more comprehensive than the requirements of this rule; provided, however, that the exemption as to the members of any exchange may be suspended or withdrawn by the Commissioner at any time, by sending ten (10) days written notice to such exchange, if it appears to the Commissioner to be necessary or appropriate in the public interest or for the protection of investors so to do. This exemption shall not be available to the members of any exchange whose capital rules do not provide that in the computation of net capital there shall be a deduction of not less than 10% of the contract price of each item in the securities failed to deliver account which is outstanding 40 to 49 calendar days, 20% of the contract price of each item in the securities failed to deliver account which is outstanding 50 to 59 calendar days, and 30% of the contract price of each item in the securities failed to deliver account which is outstanding 60 or more calendar days.

(c) The net capital requirements for broker-dealers, as set forth in this Rule, shall be calculated in conformance with 17 C.F.R. section 240-15c3-1, as amended.

[amended, effective 2-21-81]

(d) (1) Whenever any broker-dealer subject to the requirements of paragraph (a) of this section, or exempt under paragraph (b) hereof, falls below the required net capital or fails to continue to qualify for an exemption, he shall immediately cease his operation as a broker-dealer and notify the Commissioner in writing of his failure to comply with this rule, together with an explanation of the reasons for noncompliance. Activities as a broker-dealer shall not be again commenced until the Commissioner has been provided satisfactory evidence demonstrating that the broker-dealer is in compliance with paragraph (a), and has provided his written consent thereto.

(2) Whenever any broker-dealer subject to these rules is in violation of the net capital rules of the Securities and Exchange Commission, or any securities exchange of which he is a member, he shall notify the Commissioner of such violation in the same manner as specified in paragraph (d)(1) above.

(3) Every broker-dealer subject to the requirements of paragraph (a) of this section, or exempt under paragraph (b) shall notify the Commissioner in writing whenever his aggregate indebtedness exceeds 12 times his net capital or his net capital is less than 120 percent of the minimum required.

2120-2240

SDiv 2014 Bond requirements for investment advisors.

A. Amount. Any investment adviser who has custody of, or discretionary authority over, any assets of any client shall have first posted with the commissioner a surety bond in the amount of $25,000, on such form as the commissioner may prescribe.

B. Alternative compliance. Any appropriate deposit of cash or security shall be accepted in lieu of any bond required by this section. An appropriate deposit requires, in the case of deposited securities, that the securities have a market value equal to 120 percent of the amount of the bond which would otherwise be required, and represent an interest in, or debt of, any of the persons whose securities are exempt from registration under Minnesota Statutes, section 80A.15, subdivision 1, clause (a), (b), (c), (d) or (e). At no time shall the market value of the securities on deposit be less than 105 percent of the amount of the required bond. Any deposit of cash or securities under this paragraph shall be made with an escrow agent, and under such terms and conditions as the commissioner deems appropriate, and shall remain with the depository for a period of three years after the last securities transaction conducted by the licensee or the effective date of any bond acquired by the licensee, whichever first occurs. The commissioner shall allow an irrevocable letter of credit in lieu thereof.

C. Nonapplication. SDiv 2014 A. does not apply to any investment adviser who continuously maintains net capital of not less than $100,000.

SDiv 2015 (a) Every broker-dealer shall maintain accounts of customers in such form and manner as to show the following information: Name, address, age and in the case of a margin or discretionary account, the customer's signature; the signature of the agent introducing the account and the signature of the broker-dealer or the partner, officer or manager accepting the account for the broker-dealer. If the customer is associated with or employed by another broker-dealer, this fact must be noted. In discretionary accounts, the broker-dealer shall also record the date said account was authorized, the occupation and signature of the customer, and the signature of each person authorized to exercise discretion in each account.

(b) Every broker-dealer shall keep and preserve in each office of supervisory jurisdiction either a separate file on all written complaints of customers and action taken by the broker-dealer, if any, or a separate record of such complaints and a clear reference to the files containing the correspondence connected with such complaint as maintained in such office. A "complaint" shall be deemed to mean any written statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of those persons under the control of the broker-dealer in connection with the solicitation or execution of any transaction or the disposition of securities or funds of that customer.

(c) Every licensed broker-dealer shall make and keep current the following books and records:

(1) Blotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash and all other debits and credits. Such record shall show the account for which each such transaction was effected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person for whom purchased or received or to whom sold or delivered.

(2) Ledgers (or other records) reflecting all assets and liabilities, income and expense and capital accounts.

(3) Ledger accounts itemizing separately as to each cash and margin account of every customer and of such broker-dealer and partners thereof, all purchases, sales, receipts and deliveries of securities for such account and all other debits and credits to such account.

(4) Ledger (or other records) reflecting the following:

(aa) Securities in transfer;

(bb) Dividends and interest received;

(cc) Securities borrowed and securities loaned;

(dd) Monies borrowed and monies loaned (together with a record of the collateral therefor and any substitution in such collateral);

(ee) Securities failed to receive and failed to deliver.

(5) A securities record or ledger reflecting separately for each security as of the clearance dates all "long" or "short" positions (including securities in safekeeping) carried by such dealer for his account or for the account of his customers or partners and showing the location of all securities long and the offsetting position to all securities short and in all cases the name or designation of the account in which each position is carried.

(6) A memorandum of each order, and of any order instruction, given or received for the purchase or sale of securities, whether executed or unexecuted. Such memorandum shall show the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry, the price at which executed and, the time of execution or cancellation. Orders entered pursuant to the exercise of discretionary power by any employee shall be so designated, and each such order shall be approved by an officer or partner. The term "instruction" shall be deemed to include instructions between partners and employees of a dealer. The term "time of entry" shall be deemed to mean the time when such broker-dealer transmits the order or instruction for execution, or, if it is not so transmitted, the time when it is received.

(7) Copies of confirmations of all purchases and sales of securities and copies of notices of all other debits and credits for securities, cash and other items for the account of customers, partners, or officers, of such broker-dealer.

(8) A record in respect of each cash and margin account with such broker-dealer, containing the name and address of the beneficial owner of such account and, in the case of a margin account, the signature of such owner; provided that, in the case of a joint account or an account of a corporation, such records are required only in respect of the person or persons authorized to transact business for such accounts.

(9) A record of all puts, calls, spreads, straddles and other options in which such broker-dealer has any direct or indirect interest or which such broker-dealer has granted or guaranteed, containing, at least, an identification of the security and the number of units involved.

(10) A record of the proof of money balances of all ledger accounts in the form of trial balances, and a record of the computation of aggregate indebtedness and net capital shall be prepared currently at least once a month.

(11) This rule shall apply to every licensed broker-dealer except that a broker-dealer meeting all of the following conditions shall be exempt from the provisions of this rule:

(aa) His dealer transactions (as principal for his own account) are limited to the purchase, sale and redemption of redeemable shares of registered investment companies;

(bb) His transactions as broker (agent) are limited to:

(i) the sale and redemption of redeemable securities of registered investment companies; or of interests or participations in an insurance company separate account, whether or not registered as an investment company;

(ii) the solicitation of share accounts for savings and loan associations insured by an instrumentality of the United States; and

(iii) the sale of securities for the account of a customer to obtain funds for immediate reinvestment in redeemable securities of registered investment companies; and

(cc) He promptly transmits all funds and delivers all securities received in connection with his activities as a broker dealer, and does not otherwise hold funds or securities for, or owe money or securities to, customers.

In addition to the above, the Commissioner may exempt a broker-dealer from this rule, whether or not he complies with (aa)-(cc) above, if:

(dd) The broker-dealer is a fully-disclosed correspondent of another broker-dealer licensed under this chapter, and

(ee) Both the correspondent broker-dealer and the carrying broker-dealer have entered into a written agreement with the Commissioner relating to record keeping and access to records.

(12) Any broker-dealer who is subject to the provisions of this rule shall at least once in each calendar quarter-year:

(aa) physically examine and count all securities held;

(bb) account for all securities in transfer, in transit, pledged, loaned, borrowed, deposited, failed to receive, and failed to deliver or otherwise subject to his control or direction but not in his physical possession by examination and comparison of the supporting detail records with the appropriate ledger control accounts;

(cc) verify all securities in transfer, in transit, pledged, loaned, borrowed, deposited, failed to receive, and failed to deliver or otherwise subject to his control or direction but not in his physical possession, where such securities have been in said status for longer than thirty days;

(dd) compare the results of the count and verification with his records; and

(ee) record on the books and records of the broker-dealer all unresolved differences setting forth the security involved and date of comparison in a security count difference account no later than seven business days after the date of each required quarterly security examination, count, and verification in accordance with the requirements provided in paragraph (c)(3) hereof,

provided, however, that such procedures need not be carried out by the broker-dealer for the calendar quarter-year during which the date of his annual report of financial condition (pursuant to Rule 17a-5) falls; and further provided, that no examination, count, verification and comparison for the purpose of this rule shall be within two months of or more than four months following a prior examination, count, verification and comparison made hereunder.

(13) The examination, count, verification and comparison may be made either as of a date certain or on a cyclical basis covering the entire list of securities. In either case the recordation shall be effected within seven business days subsequent to the examination, count, verification and comparison of a particular security. In the event that an examination, count, verification and comparison is made on a cyclical basis, it shall not extend over more than one calendar quarter-year, and no security shall be examined, counted, verified or compared for the purpose of this rule less than two months or more than four months after a prior examination, count, verification and comparison.

(d) Every broker-dealer shall preserve all records required by this SDiv 2015 for a period of not less than three years, the first two years in an easily accessible place and form. After the first two years, a photograph on film may be substituted for the records for the balance of the required time.

(1) Every broker-dealer shall keep and preserve any written, printed or other advertisement which is published in connection with the offer or sale of a security or which is reasonably intended to encourage individuals or others to engage the services of the broker-dealer or any of its agents.

(2) The practices deemed deceptive or misleading pursuant to SDiv 2123(c) shall likewise be deemed deceptive or misleading when employed by or on behalf of a broker-dealer.
[1981, effective 2-21-81]

(e) Every broker-dealer shall preserve all records, files, communications and other information required by this SDiv 2015 for a period of not less than three years, the first two years in an easily accessible place and form. After the first two years, a photograph on film may be substituted for the records for the balance of the required time.
[amended, effective 2-21-81]

SDiv 2016 (a) Every investment adviser shall make and keep true, accurate and current the following books and records relating to his investment advisory business:

(1) a journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger;

(2) general and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts;

(3) a memorandum of each order given by the investment adviser for the purchase or sale of any security, a memorandum of any instruction received by the investment adviser from the client concerning the purchase, sale, receipt or delivery of a particular security, and a memorandum of any modification or cancellation of any such order or instruction. Such memoranda shall

show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment adviser who recommended the transaction to the client and the person who placed such order, and shall show the account for which entered, the date of entry, and the bank, broker-dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated;

(4) all check books, bank statements, cancelled checks and cash reconciliation of the investment adviser;

(5) all bills or statements (or copies thereof), paid or unpaid, relating to the business of the investment adviser as such;

(6) all trial balances, financial statements and internal audit working papers relating to the business of such investment adviser;

(7) originals of all written communications received and copies of all written communications sent by such investment adviser relating to:

(aa) any recommendation made or proposed to be made and any advice given or proposed to be given;

(bb) any receipt, disbursement or delivery of funds or securities; or

(cc) the placing or execution of any order to purchase or sell any security; provided, however,

(i) that the investment adviser shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment adviser, and

(ii) that if the investment adviser sends any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to more than 10 persons, the investment adviser shall not be required to keep a record of the names and addresses of the persons to whom it was sent, except that if such notice, circular or advertisement is distributed to persons named on any list, the investment adviser shall retain with the copy of such notice, circular or advertisement a memorandum describing the list and the source thereof.

(8) a list or other records of all accounts in which the investment adviser is vested with any discretionary power with respect to the funds, securities or transactions of any client;

(9) all powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment adviser, or copies thereof;

(10) all written agreements (or copies thereof) entered into by the investment adviser with any client or otherwise relating to the business of such investment adviser as such;

(11) a copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication recommending the pur-

chase or sale of a specific security, which the investment adviser circulates or distributes, directly or indirectly, to 10 or more persons (other than investment supervisory clients or persons connected with such investment adviser), and if such notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication does not state the reasons for such recommendation a memorandum of the investment adviser indicating the reasons therefor;

(12) a record of every transaction in a security in which the investment adviser or any advisory representative (as hereinafter defined) of such investment adviser has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except

(aa) transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

(bb) transactions in securities which are direct obligations of the United States. Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected, and the name of the broker-dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected. For the purposes of this paragraph, the term "advisory representative" shall mean any partner, officer or director of the investment adviser; any employee who makes any recommendation, who participates in the determination of which recommendation shall be made, or whose functions or duties relate to the determination of which recommendation shall be made; any employee who, in connection with his duties, obtains any information concerning which securities are being recommended; and any person in a control relationship to the investment adviser who obtains information concerning securities recommendations being made by such investment adviser other than as a regular client of such investment adviser. An investment adviser shall not be deemed to have violated the provisions of this paragraph because of his failure to record securities transactions of any advisory representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

(b) If an investment adviser subject to paragraph (a) of this regulation has custody or possession of securities or funds of any client, the records required to be made and kept under paragraph (a) above shall include:

(1) a journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for such accounts and all other debits and credits to such accounts;

(2) a separate ledger account for each such client showing all

purchases, sales, receipts and deliveries of securities, the date and price of each such purchase and sale, and all debits and credits;

(3) copies of confirmations of all transactions effected by or for the account of any such client;

(4) a record for each such security in which any such client has a position, which record shall show the name of each such client having any interest in such security, the amount or interest of each such client, and the location of each such security;

(c) Every investment adviser subject to paragraph (a) of this regulation who renders any investment supervisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment adviser, make and keep true, accurate and current:

(1) records showing separately for each such client the securities purchased and sold, and the date, amount and price of each such purchase and sale;

(2) for each security in which any such client has a current position, information from which the investment adviser can promptly furnish the name of each such client, and the current amount or interest of such client;

(d) Any books or records required by this regulation may be maintained by the investment adviser in such manner that the identity of any client to whom such investment adviser renders investment supervisory services is indicated by numerical or alphabetical code or some similar designation. Such code or designation shall be made available to the Commissioner upon demand.

(e) (1) All books and records required to be made under the provisions of paragraphs (a), (b) and (c), inclusive, of this regulation shall be maintained and preserved in an easily accessible place for a period of not less than three years from the end of the fiscal year during which the last entry was made on such record, the first two years in an appropriate office of the investment adviser.

(2) Partnership articles and any amendments thereto, articles of incorporation, charters, minute books, and stock certificate books of the investment adviser and of any predecessor, shall be maintained in the principal office of the investment adviser and preserved until at least three years after termination of the enterprise.

(f) An investment adviser subject to paragraph (a) of this regulation, before ceasing to conduct or discontinuing business as an investment adviser, shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this rule for the remainder of the period specified in this regulation, and shall notify the Commissioner in writing the exact address where such books and records will be maintained during such period.

(g) After a record or other document has been preserved for two years, a photograph on film may be substituted for the balance of the required time.

(h) (1) Any book or other record made, kept, maintained and preserved in compliance with the Rules under the Securities Exchange Act of 1934, which is substantially the same as the book or other record required to be made, kept, maintained and preserved in compliance with this regulation, shall be deemed to be made, kept, maintained and preserved in compliance with this regulation.

(2) A record made and kept pursuant to any provision of paragraph (a) of this regulation, which contains all the information required under any provision of paragraph (a), need not be maintained in duplicate in order to meet the requirements of the other provision of paragraph (a) of the regulation.

(i) As used in this regulation, the term "discretionary power" shall not include discretion as to the price at which or the time when a transaction is or is to be effected if, before the order is given by the investment adviser, the client has directed or approved the purchase or sale of a particular security.

(j) (1) Every investment adviser shall keep and preserve any written, printed or other advertisement which is published in connection with the offer or sale of a security or which is reasonably intended to encourage individuals or others to engage the services of the investment adviser.

(2) The practices deemed deceptive or misleading pursuant to SDiv 2123(c) shall likewise be deemed deceptive or misleading when employed by or on behalf of an investment adviser.
[1981, effective 2-21-81]

(k) Every investment adviser shall preserve all records, files, communications and other information required by this Rule for a period of not less than three years, the first two years in an easily accessible place and form. After the first two years, a photograph on film may be substituted for the records for the balance of the required time.
[1981, effective 2-21-81]

SDiv 2017 (a) Every broker-dealer shall, within 90 days following the close of either its fiscal or accounting year, submit an annual report to the Commissioner in such form, and containing such information as the Commissioner shall prescribe. At a minimum, the report shall contain audited financial statements certified by an independent certified public accountant consisting of a balance sheet, income statement, and reconciliation of surplus prepared in accordance with generally accepted accounting principles.
[amended, effective 2-21-81]

(b) Any report required to be filed with the Securities and Exchange Commission which contains essentially the same information as the Commissioner shall prescribe under paragraph (a) may be filed in lieu of the form required by paragraph (a).

(c) The Commissioner may at any time require such report as he deems necessary to determine whether the broker-dealer is in compliance with the net capital requirement and aggregate indebtedness limitation of these rules.

(d) As a condition of granting any license, the Commissioner may, by order, impose a more frequent reporting requirement upon any broker-dealer.

SDiv 2018 [Repealed, 1981; number reserved for future use.]

SDiv 2019 (a) Except as provided in Minnesota Statutes, Section 80A.15, Subdivision 2(i), and except for negotiations with and among underwriters and members of a selling group, in connection with any offering made pursuant to Minnesota Statutes, Section 80A.11 a prospectus or offering circular complying with the provisions of Minnesota Statutes, Section 80A.11, Subdivision 2, shall be given to each person to whom an offer is made before or concurrently with (1) the first written offer made to him (otherwise than by means of a public advertisement) by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution, (2) the confirmation of any sales made by or for the account of any such person, (3) payment pursuant to any such sale, or (4) delivery of the security pursuant to any such sale, whichever first occurs. An underwriter or broker-dealer is deemed to be offering part of an unsold allotment or subscription taken by him as a participant in the distribution in connection with any transaction executed by him prior to the expiration of 40 days after the effective date of the registration statement or the first date upon which a bona fide offer of the security was made to the public by the issuer or by or through an underwriter after such effective date, whichever is later, or, with respect to securities of an issuer which have not previously been sold pursuant to an earlier effective registration statement, prior to the expiration of 90 days after such date.

(b) For the purpose of this section, the following terms shall have the meanings herein ascribed to them:

(1) "Offering circular" means an offering circular in compliance with the requirements of the Securities Act of 1933 and the rules and forms promulgated thereunder.
[amended, effective 2-21-81]

(2) "Prospectus" means any prospectus, notice, circular, advertisement, letter, or communication, written or by radio or television, which offers any security for sale or confirms the sale of any security; except that (aa) a communication sent or given after the effective date of the registration statement (other than a prospectus permitted under Subsection (b) of Section 10 of the Securities Act of 1933) shall not be deemed a prospectus if it is proved that prior to or at the same time with such communication a written prospectus (meeting the requirements of Minnesota Statutes, Section 80A.11, Subdivision 2, at the time of such communication) was sent or given to the person to whom the communication was made, and (bb) a notice, circular, advertisement, letter, or communication in respect of the security shall not be deemed to be a prospectus if it states from whom a written prospectus meeting the requirements of Section 80A.11, Subdivision 2 may be obtained and, in addition, does no more than identify the security, state the price thereof, state by whom orders will be executed, and contain such other information as the Commissioner deems necessary or appropriate in the public interest and for the protection of investors.

(3) "Underwriter" means any person who has purchased from an issuer

with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; but such terms shall not include a person whose interest is limited to a commission from an underwriter or broker-dealer not in excess of the usual and customary distributor's or seller's commission.

(c) A prospectus or offering circular does not comply with the provisions of Minnesota Statutes, Section 80A.11, if the issuer or other person on whose behalf the offering is being made, or any broker-dealer or underwriter is offering part of an unsold allotment and;

(1) any material change has occurred in the information contained in the prospectus or offering circular and the prospectus or offering circular has not been updated to reflect such change; or

(2) the prospectus or offering circular is more than nine months old, except in the case of a prospectus or offering circular for stock option plans or stock purchase plans in which case the prospectus shall be no more than twelve months old.

SDiv 2020 (a)(1) As a condition of registration of securities by an issuer, restrictions on transferability of all cheap stock owned by officers, directors, or persons owning greater than ten (10) percent of the then outstanding stock of the issuer, may be required. The restrictions on transferability may be by means of escrow of shares, legending of share certificates, or by other means, as may be determined by the Commissioner upon the facts and circumstances of each case to be necessary for the protection of public investors, or by any combination of the foregoing.

(2) The Commissioner shall determine conditions of escrow which he deems applicable whenever escrow of securities may be necessary, and shall prescribe forms embodying such conditions of escrow. The

Commissioner may prescribe additional conditions applicable to each particular case which shall be typed upon the form in space provided, or upon separate sheets which shall be attached to and made a part of the prescribed form. All escrow agreements shall be prepared on forms so prescribed by the Commissioner. The Commissioner shall require that the escrow agent be a national bank, a state bank, or a trust company.

(3) Whenever an escrow is required by the Commissioner, he shall be deemed a party to the agreement.

(b) When used in this rule or in any escrow agreement entered into pursuant to this rule, unless the context otherwise requires:

(1) Accepted for filing means a written notation on the agreement that it is accepted for filing by the Commissioner and will be incorporated by reference in the order for registration.

(2) Conditions of escrow means those conditions specified in the escrow agreement which must be performed by the designated signatory thereto before the escrowed shares or any property deposited into escrow pursuant to the escrow agreement or supplemental escrow agreement may be released from escrow.

(3) Deposited in escrow means the delivery by or on behalf of a depositor to the escrow agent of any certificates, instruments, documents or other evidence of title, evidencing ownership in securities required to be escrowed by terms of the escrow agreement.

(4) Depositor means (aa) any person whose securities are deposited in escrow pursuant to an escrow agreement signed by him, or (bb) any other person who, because of subsequent transactions by any depositor, becomes entitled to escrowed shares upon release from escrow.

(5) Escrow agent means an independent corporate fiduciary acceptable to the Commissioner and signatory to the escrow agreement who receives securities for deposit in escrow pursuant to the terms and conditions of the escrow agreement.

(6) Escrow agreement means an agreement, in form and content prescribed by the Commissioner, executed by the escrow agent and all depositors and noted by the Commissioner as accepted for filing.

(7) Escrowed shares means all securities, including all rights and title to and interests therein, deposited in escrow pursuant to the escrow agreement or any supplemental escrow agreement.

(8) Issuer means the issuer as defined in Minnesota Statutes, Section 80A.14(i), whose securities are proposed to be offered or offered for sale to public investors pursuant to an order of registration.

(9) Price paid by depositors means the amount in cash or other tangible assets having an established market value paid to the issuer for the depositors' shares.

(10) Price paid by public investors means the aggregate offering price of all securities sold in an offering registered under the act.

(11) Public investors include (aa) all holders of securities issued or purchased pursuant to registration under the act, and (bb) all holders

of securities issued or purchased in any transaction exempt from registration which transaction occurred subsequent to a registration for which shares were required to be escrowed.

(12) Receipt for escrowed shares means a receipt, which may be included in the escrow agreement or supplemental escrow agreement, signed by the escrow agent and delivered to the Commissioner, which receipt describes the escrowed shares or any authorized dividend and certifies that the escrowed shares or any authorized dividend with respect thereto have been deposited in escrow.

(13) Release of escrowed shares means the delivery of escrowed shares by the escrow agent to any person thereto entitled by terms of the escrow agreement for purposes therein specified.

(14) Securities purchased by public investors include all securities outstanding by reason of issuance pursuant to registration or by reason of issuance in a transaction exempt from registration subsequent to registration.

(15) Supplemental escrow agreement means an agreement between escrow agent and depositors whereby all rights to authorized dividends with respect to escrowed shares are deposited in escrow pursuant to the conditions of escrow contained in the escrow agreement.

(16) Term of escrow means the duration of time within which the condition of escrow must be performed before the escrow agent may release the escrowed shares.

See aR0223957 for new →

SDiv. 2021 (a) Where the Commissioner determines that protection of public investors requires that all or some portion of cheap stock be deposited in escrow, he shall so notify the issuer or depositors, specifying the additional terms and conditions to be included in the agreement. The issuer or depositors shall then prepare, on forms prescribed by the Commissioner, and submit for approval a proposed escrow agreement.

(b) Upon notification by the Commissioner that the proposed escrow agreement is approved as to form, the depositors and escrow agent shall execute an original and such copies of the approved escrow agreement as may be necessary, and shall file the same with the Commissioner. An original of said escrow agreement will remain on file with the Commissioner, and copies noted as accepted for filing will be returned to the issuer. No securities shall be registered until an executed original of the escrow agreement is filed with the Commissioner. The conditions of the escrow agreement shall be incorporated by reference in the order of registration: and escrowed securities shall be subject to the continuing jurisdiction of the Commissioner until he orders termination of the escrow.

(c) The Commissioner in his discretion may remove the conditions and restrictions imposed by this chapter from any part or all of the escrowed shares when he deems such removal justifiable or when he deems that the circumstances under which the conditions and restrictions were imposed no longer exist. Events warranting a consideration of the circumstances with regard to the foregoing determination include, but are not limited to, the following:

(1) The need of a depositor for funds to meet emergency needs which were not readily foreseeable at the time of registration and which cannot otherwise be satisfactorily met, provided release from escrow would not result in substantial detriment to public investors.

(2) Upon receipt by public investors of cash and/or actively traded securities of another corporation of a market value at least equal to the price paid by the public investors pursuant to bona fide arm's length negotiations with an independent third person for the sale of substantially all the assets of the issuer or in connection with a merger or consolidation.

(3) Whenever the issuer has demonstrated annual net earnings, after taxes, determined in accordance with generally accepted accounting principles and excluding extraordinary items, during any two consecutive years after the date of the order of registration, of at least five percent (5%), on an amount determined by multiplying the number of outstanding shares of the issuer by the average price per share paid by public investors.

(4) When, upon proposal of merger and consolidation or other organic change, a depositor exercised his rights under Minnesota Statutes, Sec. 301.40 (1971) or Minnesota Statutes, Sec. 301.44 (1971), provided that, in the opinion of the Commissioner, the proposed manner of sale of the escrowed shares does not tend to work fraud or inequity on other shareholders, present or proposed.

SDiv 2022 (a)(1) Where the offering of securities is not firmly underwritten, and in the opinion of the Commissioner, the protection of public investors so requires, the Commissioner may require as a condition of registration, unless reason for exception can be demonstrated, that all or a portion of the proceeds from the sale of the securities registered be impounded with an impoundment agent satisfactory to the Commissioner.
[amended, effective 2-21-81]

(2) The Commissioner shall determine conditions of impoundment which he deems applicable to all impoundment agreements, and shall prescribe forms embodying such general conditions. The Commissioner may prescribe additional conditions applicable to each particular case, which shall be typed upon the form in space provided or upon separate sheets which shall be attached to and made a part of the prescribed form. All impoundment agreements shall be prepared on forms so prescribed by the Commissioner. Upon notification by the Commissioner of the additional terms and conditions of impoundment, the issuer shall submit a proposed impoundment agreement for approval as to form. Upon notification by the Commissioner that the impoundment agreement is approved as to form, the issuer, the impoundment agent and any agent or underwriter shall execute an original and such copies of the impoundment agreement as may be necessary, and shall file the same with the Commissioner. An original of said impoundment agreement will remain on file with the Commissioner, and copies noting acceptance for filing will be returned to the issuer. No securities shall be registered until an executed original of the impoundment agreement

is filed with the Commissioner. The Commissioner shall require that the impoundment agent be a national bank, a state bank, or a trust company.

(3) The conditions of the proceeds impoundment agreement shall be incorporated by reference in the order of registration, and impounded proceeds shall be subject to the continuing jurisdiction of the Commissioner until he directs termination of the impoundment.

(b) **Definitions.** When used in this chapter of these regulations or in any proceeds impoundment agreement entered into pursuant to these regulations, unless the context otherwise requires:

(1) Conditions of impoundment means those conditions specified in the impoundment agreement which must be performed before any issuer or impoundment agent may apply to the Commissioner for termination of the impoundment agreement and the release of impounded proceeds.

(2) Impoundment means the receipt by the impoundment agent of all proceeds from the sale of securities subject to the impoundment agreement, whether sold by the issuer, by an agent for the issuer or by any underwriter.

(3) Impoundment agent means an independent corporate fiduciary which will impound all proceeds from the sale of securities subject to the impoundment agreement according to the conditions and for the term of the impoundment agreement.

(4) Impoundment agreement means an agreement, accepted by the Commissioner for filing, and executed by the impoundment agent, the issuer, and any underwriter or agent engaged in the sale of securities subject to the impoundment agreement, specifying the conditions and term of impoundment.

(5) Proceeds include all valuable consideration given by any person in connection with the purchase of any securities subject to the impoundment agreement.

(6) Release of impounded proceeds means release of the impounded proceeds by the impoundment agent at the direction of the Commissioner to any person entitled thereto according to the terms of the impoundment agreement.

(7) Securities subject to the impoundment agreement means all securities sold pursuant to an order of registration which requires the impoundment of proceeds.

(8) Subscribers include all persons who subscribe for securities subject to the impoundment agreement and deliver payment therefor.

(9) Terms of impoundment means the number of days, specified in the impoundment agreement, beginning from date of order or registration, within which the issuer or any agent or underwriter must sell the securities subject to the impoundment agreement in order to meet the minimum conditions of impoundment relating to the amount of proceeds.

(10) Termination of impoundment means a written authorization by the Commissioner directing the impoundment agent to terminate the impoundment and to release the impounded proceeds.

SDiv 2023 (a) The Commissioner shall authorize the impounding agent to terminate the impoundment and release the impounded proceeds to the issuer when the full amount specified in the impoundment agreement has been impounded, and any other conditions to such release have been satisfied, unless there have been material changes in the plan of operation or in other material circumstances that would render the amount of impounded proceeds inadequate to finance the proposed plan of operation, or unless such other material changes have occurred as would render the representations contained in the prospectus by which securities were offered for sale to be fraudulent, false or materially misleading.

(b) An application to the Commissioner for authorization to terminate the impoundment and release the impounded proceeds shall contain:

(1) a statement of the issuer and any agent or underwriter engaged in the sale of securities subject to the impoundment agreement, setting forth the number of securities sold, and stating that all proceeds from the sale of the securities subject to the impoundment agreement have been delivered to the impoundment agent in accordance with the terms and conditions of the impoundment agreement, and that there have been no material adverse changes in the financial condition of the issuer or in other circumstances that would render the amount of impounded proceeds inadequate to finance the proposed plan of operations and that there have been no other material changes which would render the representations contained in the prospectus or offering circular to be fraudulent, false or materially misleading; and

(2) a statement of the impoundment agent signed by an appropriate officer setting forth the aggregate amount and the date received of the impounded proceeds; and

(3) such other information as the Commissioner may require in a particular case.

SDiv 2024 So long as a registration is effective, the issuer shall, if possible, notify the Commissioner in writing prior to or simultaneously with the occurrence of any of the following events, but in no event later than 10 days following the occurrence thereof:

(a) A decision to file for bankruptcy, enter receivership or any other similar proceeding;

(b) The cessation of business activities;

(c) A default on any payment of principal, interest, sinking fund installment or other similar payment, for a period of over 30 days, with respect to any indebtedness of the registrant or any of its subsidiaries exceeding five percent of the total assets of the registrant and its consolidated subsidiaries; or

(d) Any other event, occurrence or transaction which may or will have a material adverse effect upon the financial stability of the issuer.
[amended, effective 2-21-81]

SDiv 2025 Every issuer or its agent shall immediately notify the Commissioner in the event of a sale of securities in excess of the amount registered. Under no circumstances shall the notice be more than 30 days after the date on which the oversale occurred.
[amended, effective 2-21-81]

SDiv 2026 So long as a registration statement is effective, within 150 days of the end of the fiscal year, the registrant shall distribute an annual report to all shareholders. Said annual report shall contain a balance sheet, income statement, statement of changes in financial position, all of which must be audited by an independent certified public accountant with his opinion expressed thereon, and such other information as may be necessary for complete disclosure.

SDiv 2027 (a) So long as a registration statement is effective, the issuer shall file an annual report in such form, and containing such information as the Commissioner prescribes. At a minimum, the annual report shall contain the following:

(1) The date of the report and fiscal year covered by the report;

(2) The exact name of the issuer;

(3) The state or other jurisdiction of incorporation or organization;

(4) The address of the issuer's principal executive offices;

(5) The telephone number of the issuer;

(6) A description of all sales of unregistered securities made within the fiscal year covered by the report including:

(aa) The type of securities sold;

(bb) The number and dollar amount of securities sold;

(cc) The persons or class of persons to whom such securities were sold;

(dd) The market price of the securities sold on the date of sale, if applicable;

(ee) The name of any broker-dealer or agent participating in such sale, and the amount of commissions or other remuneration paid, if applicable; and

(ff) The exemptions claimed for any such sales;

(7) A description of all securities of the issuer repurchased or otherwise reacquired by the issuer within the fiscal year covered by the report;

(8) The names and addresses of all officers and directors, or persons occupying similar status or performing similar functions;

(9) A description of the business of the issuer, including its products and services, competitive conditions, sources of supply, the number and general function of employees, its market area, and any other factors which materially affect the business or operations of the issuer;

(10) A summary of operations for the fiscal year covered by the report including, without limitation, gross revenues, cost of goods sold or services

provided, net income, debt service and earnings per share of each class of equity security outstanding, together with a comparison of similar figures for the fiscal year preceding the fiscal year covered by the report. The comparison required by this paragraph may be presented in columnar form;

(11) A brief description of the location and general character of plants, mines and other materially important physical properties of the issuer;

(12) A description of any material legal proceedings pending against the company;

(13) An explanation of any increase or decrease in the number of outstanding securities, in any class, of the issuer;

(14) The approximate number of holders of record of each outstanding class of equity securities;

(15) A list in tabular form of the name and address of each executive officer, and any person known to the issuer who beneficially owns 10 percent or more of any class of outstanding voting securities of the issuer, showing for each the title of the class owned, the type of ownership, the amount owned and the percent of class owned;

(16) A list in tabular form of the amount of remuneration received and the capacity in which such remuneration was received for each executive officer and director;

(17) A list and description of the number and exercise price of all options outstanding which are beneficially owned by any officer or director;

(18) A description of any transactions in the last fiscal year or any currently pending transaction to which the issuer or any of its subsidiaries was a party and in which any director, officer, ten percent shareholder or any affiliate had or will have a direct or indirect material interest, and a description of the nature of such interest; and

(19) Financial statements complying with the requirements of SDIV 2132 of these regulations.

(20) A statement by the issuer that it has complied with the requirements set forth in Minn. Stat. Ch. 345 relating to unclaimed property.
[1978]

(b) (1) Any issuer filing annual reports under the Securities Exchange Act of 1934 may file, in lieu of the report required by paragraph (a) of this section, a duplicate copy of the annual report filed with the Securities and Exchange Commission.

(2) Any issuer filing reports under the Investment Company Act of 1940 may file, in lieu of the report required by paragraph (a) of this section, a current updated prospectus as filed with the Securities and Exchange Commission or a copy of the annual report required to be filed with the Securities and Exchange Commission.
[amended, effective 2-21-81]

(c) The annual report or prospectus required by this section shall be filed on or prior to the 90th day (or 120th day in the case of issuers registered

under the Investment Company Act of 1940) following the close of the issuer's fiscal year, except that if the information required by SDiv 2027(a)(19) is not reasonably available at such time, such information may be filed on or before the 150th day following the close of the issuer's fiscal year. *[amended, effective 2-21-81]*

SDiv 2028 Application. Regulations under this Section of the Act are divided into separate subchapters based upon the type of security involved. However, SDiv 2029-2041 shall apply to all securities, and should be followed in all instances unless they are inconsistent with another regulation in the appropriate subchapter for the type of security proposed to be registered. In that instance, the subchapter requirements will apply. SDiv 2028 to 2109 shall not apply to securities or transactions exempted by Minn. Stat. § 80A.15, Subdivisions 1 or 2 (1978), as amended, nor shall they apply to securities registered by notification.

Subchapter 1 Equity Securities Regulation SDiv 2029-2041
Subchapter 2 Senior Securities Regulation SDiv 2042-2046
Subchapter 3 Investment Companies Regulation SDiv 2047-2057
Subchapter 4 Real Estate Limited Partnerships SDiv 2058-2066
Subchapter 5 Oil and Gas Programs SDiv 2067-2080
Subchapter 6 Cattle Feeding Programs SDiv 2081-2089
Subchapter 7 Real Estate Investment Trusts SDiv 2090-2109
Subchapter 8 Commodity Pool Guidelines 4 MCAR §§ 1.2140 to 1.2146

SDiv 2029 Minimum Investment Required.

(a) Unless an issuer or its predecessors have demonstrated profitable operations for two of the three fiscal years prior to registration, determined in accordance with generally accepted accounting principles, after taxes and excluding extraordinary items, the "fair value of the equity investment" of such issuer shall be at least 10 percent of the first $1 million and 5 percent thereafter of the "equity investment" which would result from the sale of all the securities proposed to be offered.

(b) "Fair value of the equity investment" shall mean the higher of:

(1) the total of all sums irrevocably conveyed to the issuer in cash, together with the reasonable value of all tangible assets irrevocably conveyed to the issuer, and together with an evaluation by a qualified independent appraiser of intangible assets including, but not limited to, patents, licenses, technologies, trademarks, and technical or professional services contributed by the promoters, as adjusted by the retained earnings of the issuer subsequent to the dates of such conveyances, payments or contributions, or

(2) the total shareholders' equity as set forth in a certified balance sheet prepared in accordance with SDiv 2132, less the value assigned to any intangible assets which have not been independently evaluated.

(c) "Equity investment" shall mean the sum of:

(1) the "fair value of the equity investment" plus

(2) an amount equal to the net proceeds which would be received by the issuer upon completion of the offering, assuming the maximum aggregate amount of securities registered are sold.

(d) An appraisal or other evaluation used for the purposes of complying with the minimum equity investment may not be reflected in any form, either in the prospectus or in the issuer's financial statements or any footnotes thereto, unless it conforms with generally accepted accounting principles.
[amended, effective 2-21-81]

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SDiv 2030 Cheap stock.

A. Quantity. The maximum quantity of cheap stock allowable, expressed as a percentage of the total number of shares to be outstanding after the proposed offering, shall be determined by calculating the "fair value of equity investment" (SDiv 2029 (b)) as a percentage of "equity investment" (SDiv 2029 (c)) in accordance with the following formulations:

1. If the percentage is ten percent or less, the maximum quantity of cheap stock allowable shall be three times the percentage.

2. If the percentage is greater than ten percent, the maximum quantity of cheap stock allowable shall be two times the percentage plus ten percent.

The maximum quantity of cheap stock allowable shall not exceed 90 percent of the total number of shares to be outstanding after the proposed offering.

Exhibit SDiv 2030 A.-1.

Maximum Amount of Cheap Stock Allowable

(as a percentage of the shares to be outstanding)

Fair Value of Equity Investment Divided by Equity Investment	Cheap Stock
5%	15%
10%	30%
15%	40%
20%	50%
30%	70%
40%	90%
50%	90%

B. Definition. Cheap stock means securities:

1. Issued in consideration of property tangible or intangible, or services, the value of which has not been reasonably established, or

2. Issued at a price substantially less than the public offering price of the securities and which cannot be justified with reference to the existence of an active public market for such securities. Securities issued at a price substantially less than the public offering price of the securities means:

a. Securities issued for less than 66-2/3 percent of the public offering price if the securities were issued less than one year prior to registration;

b. Securities issued for less than 50 percent of the public offering price if the securities were issued more than one year but less than two years prior to registration;

c. Securities issued for less than 33-1/3 percent of the public offering price if the securities were issued more than two years but less than three years prior to registration.

In the case of unexercised options, or other securities convertible into the same class of security as that proposed to be offered, the aggregate of the cash amount paid and the cash amount required to be paid pursuant to the conversion or exercise privilege shall be divided by the number of shares issuable upon conversion or exercise to determine whether the securities were "issued at a price substantially less than the public offering price."

C. Exclusions. Cheap stock does not include:

1. Securities which have been outstanding more than three years at the time of the proposed registration, provided that the issuer or its predecessors have been in active, continuous business operation for more than three years immediately prior to the proposed registration;

2. Securities of an issuer which had earnings during the fiscal year prior to registration or had earnings during two of the three fiscal years prior to registration, as determined in accordance with generally accepted accounting principles, after taxes and excluding extraordinary income. For each fiscal year such earnings shall be in an amount equal to four or greater than four percent of the proposed public offering price on all outstanding shares of the same class at the date of application for registration; or

3. Securities previously issued pursuant to a registration under Minnesota Statutes, chapter 80A.

SDiv 2031 Employee and Director Options and Other Forms of Compensation through Receipt of Securities.

(a) Outstanding options to all employees and directors shall not exceed 20 percent of the to be outstanding common shares of the issuer, provided further that:

(1) the exercise price shall not be less than 85 percent of the fair market value on the date of the grant; and

(2) no such options in excess of 10 percent of the to be outstanding shares are granted to any individual who, immediately before such option is granted, owns stock possessing more than 10 percent of the total combined voting power or value of all classes of stock of the issuer.

(b) No shares shall be issued to employees or directors unless they shall have paid at least 85 percent of fair market value therefor, other than pursuant to the provisions of paragraph (a) of this section, unless they are issued under the same terms and conditions as shares are issued to all holders of the same class of securities of the issuer.

(c) The terms of issuance of options granted and shares issued to employees and directors may vary in any manner and to any extent from the requirements and limitations of paragraphs (a) and (b) of this section, if ratified or approved by a majority of the shareholders, excluding officers, directors, employees, and their spouses.
[amended, effective 2-21-81]

SDiv 2032 Options, Warrants and Cheap Stock to Under-Writers. Options,

warrants, and cheap stock issued to underwriters or other persons as compensation, in whole or in part, for the sale of securities, shall meet all of the following criteria:

(a) The issuer shall either:

(1) not have a public market for its securities, or

(2) not have previously issued options, warrants or cheap stock to any underwriter in connection with more than one public offering of its securities.

(b) The securities may be issued only to a managing underwriter, and no securities may be issued in connection with a best efforts underwriting unless the entire issue is sold, provided however, that securities may be issued in connection with a "minimum-maximum" offering if the amount to be issued is pro-rated depending on the amount of the underwriting which is sold.

(c) Neither the exercise of the options or warrants, nor the resale, transfer, or assignment (except as provided in (d) below) of any cheap stock, may be accomplished for a period of one year from the completion of the public offering.

(d) The securities shall be non-transferable except by will, pursuant to the laws of descent and distribution, or pursuant to the operation of laws, provided, however, the securities may be transferred without payment therefore to:

(1) partners of the underwriter if the underwriter is a partnership,

(2) persons who are both officers and shareholders of the underwriter if the underwriter is a corporation, or

(3) employees of the underwriter.

(e) The initial exercise price of the options or warrants is at least equal to the public offering price plus either:

(1) seven percent (7%) each year they are outstanding, commencing one year after issuance, so that the exercise price throughout the second year is 107%, throughout the third year 114%, throughout the fourth year 121%, and throughout the fifth year 128%, or

(2) twenty percent (20%) at any time after one year from the date of issuance.

(f) The anti-dilution provisions of the securities, or the agreement under which the securities are to be issued, shall give no greater protection, rights or adjustments to the underwriter than are given the public purchasers in the proposed offering. Normally, adjustments in the exercise price or the number of shares should occur only in the cases of stock splits (both "forward" and "reverse"), stock dividends, and mergers or acquisitions.

(g) The term of any options or warrants shall not be longer than five years.

(h) The prospectus or offering circular used in connection with the public offering shall contain a full disclosure as to the terms and reasons for the issuance of the securities, and if such reason is in connection with future advisory services to be performed by the underwriter without additional compensation, a statement to that effect shall appear in the prospectus or offering circular.

(i) Shares of stock underlying warrants, options and/or stock acquired directly by an underwriter and related persons, whether acquired prior to, at the time of, or after the offering (but which is determined to be in connection with or related to the offering) shall not, in the aggregate, be more than ten (10%) per cent of the total number of shares being offered in the proposed offering. For purposes of this limitation, over-allotment shares and shares underlying warrants, options, or convertible securities which are a part of the proposed public offering are not to be counted as part of the aggregate number of shares being offered against which the 10% limitation is to be applied.

(j) If the offering is being made, either in part or in whole, on behalf of selling shareholders, such shareholders may, either individually or collectively, participate in the issuance of securities to the underwriter in the same proportion that their offering bears to the total public offering.

SDiv 2033 Options, Warrants and Convertible Securities Issued in Connection with Financing. Options, warrants and convertible securities issued to financial institutions, other than underwriters, in connection with financing arrangements made by the issuer shall meet the following criteria unless good cause for an exception or variance is shown:

(a) The securities are issued contemporaneously with the issuance of the evidence of indebtedness of the loan and expire no later than the final maturity date of the loan.

(b) The securities are issued as a result of bona fide negotiation between the issuer and parties not affiliated with the issuer.

(c) The exercise or conversion price of such securities is not less than the fair market value of the shares into which they are exercisable or convertible on the date that the loan is approved.

(d) The number of shares issuable upon conversion or exercise multiplied by the conversion or exercise price thereof does not exceed the principal amount of the loan.

(e) The aggregate number of shares into which these securities are converted or exercised shall not exceed 10% of the shares to be outstanding upon completion of the proposed public offering.

(f) For purposes of the regulation, "loan" shall mean any direct obligation of the issuer including obligations which are guaranteed by any person or persons. In the case of an affiliated person guaranteeing an obligation of the company, such person may not receive options, warrants or convertible securities.

See ARO2295T for new →

SDiv 2034 Commissions and Expenses. (a) Selling expenses in connection with an offering of securities (whether such offering is sold entirely or partially within Minnesota) shall include underwriting discounts or commissions; the value of options or warrants excluding overallotment options to acquire securities granted or proposed to be granted in connection with the offering to an underwriter, or its partners, officers, directors or shareholders, or otherwise as such underwriter may lawfully direct; finder's fees paid or to be paid in connection with the offering, whether such fees are paid by the issuer or an affiliate of the issuer; the value of the difference between the fair value at the time of issuance and the price paid for securities of the issuer issued within two years prior to the offering or proposed to be issued to an underwriter or any of its partners, officers, directors or shareholders, to the extent such sales or issuances may be deemed by the Commissioner to have been in lieu of commissions, or material in the selection of an underwriter by the issuer, or otherwise directly or indirectly connected with the offering; and all other expenses directly or indirectly incurred in connection with the offering, including nonaccountable expenses of the underwriter, but excluding, however,

(1) attorneys' fees for services in connection with the offer, sale and issuance of the securities and their qualification for offer and sale under applicable laws and regulations;

(2) charges of transfer agents, registrars, indenture trustees, escrow holders, depositaries, auditors, accountants, engineers, appraisers and other experts;

(3) cost of prospectuses, circulars and other documents required to comply with such laws and regulations;

(4) other expenses incurred in connection with such qualification and compliance with such laws and regulations;

(5) cost of authorizing and preparing the securities and documents relating thereto, including issue taxes and stamps; and shall at all times

be reasonable, and, unless good cause for an exception is shown, shall not exceed the following percentages for the specified types of companies or securities based upon percentages of the aggregate offering price:

(aa) Finance, mortgage and related companies 10%

(bb) Bonds, notes, debentures and secured issuers 10%

(cc) Common stocks 15%

(dd) Preferred stocks and other stock senior to common stock 10%

(ee) Investment companies 10%

(ff) REITS 10%

(gg) Investment contracts 10%

(b) Options or warrants to underwriters, or their partners, officers, directors or shareholders or otherwise as lawfully directed by such underwriters, shall be valued at market value, if any exists. In cases where no market value exists, an option or warrant to acquire common stock shall be valued at 20% of the public offering price of such numbers of shares under option or warrant.

(c) An issuer should not normally pay or assume any liability for expenses, excluding options to underwriters, incurred in connection with the sale of securities made by or on behalf of a selling security holder, whether or not such expenses consitute selling expenses as defined in paragraph (a) above, except that the issuer may:

(1) Provide for services customarily rendered to all security holders in connection with the transfer of securities, including the services of transfer agents and registrars;

(2) Provide audited financial statements if such statements are needed by the issuer for its own purposes; and

(3) Pay all expenses in connection with the sale of securities.

(aa) made by a person who purchased such securities from the issuer pursuant to an arm's-length agreement which required the issuer to pay such expenses in the event of a resale by the original purchaser, or made by a transferee of such purchaser, or

(bb) made by a security holder where there is no preexisting public market and a majority of the other shareholders consent to such payment.

When an offering is made simultaneously by an issuer and one or more of its security holders, the expenses, except as provided above, should be apportioned among the issuer and the selling security holders in accordance with the aggregate offering price of the securities being sold by each party.

SDiv. 2035 Loans (a) Every issuer shall disclose in an appropriate section of the prospectus or offering circular the details of every loan made by such issuer to an officer, director, employee or principal shareholder if such loan was outstanding, either in whole or in part, as of a

date one year prior to the date of application for registration, provided, however, that no disclosure need be made for a loan made in the ordinary course of business, such as travel advances, expense account advances, relocation advances, and salary advances (not exceeding 20% of that individual's annual compensation from the issuer in the one year period immediately preceding the date of the application).

(b) Every loan required to be disclosed by paragraph (a) above shall be repaid within one year from the date of registration, and this shall be disclosed in the prospectus or offering circular.

(c) Every issuer whose prospectus or offering circular discloses a loan required to be disclosed by paragraph (a) above shall include in such prospectus or offering circular the following language, or substantially similar language acceptable to the Commissioner:

The Company has agreed with certain state regulatory authorities that so long as the company's securities are registered in such states, or one year from the date of this (prospectus) (offering circular), whichever is longer, the company will not make loans to its officers, directors, employees or principal shareholders, except for loans made in the ordinary course of business, such as travel advances, expense account advances, relocation advances, or reasonable salary advances.

SDiv 2036 ***Interest of Management and Others in Certain Transactions.***

(a) The prospectus or offering circular should describe briefly any material interest, direct or indirect, of any of the following persons in any material transactions during the last three years, or in any material proposed transactions, to which the registrant or any of its subsidiaries was, or is to be, a party:

(1) Any affiliate of the registrant.

(2) Any associate or affiliate of any of the foregoing persons.

Official instructions and other applicable interpretations or rules promulgated by the United States Securities and Exchange Commission will be deemed to apply to this regulation.
[amended, effective 2-21-81]

(b) For every transaction which would be required to be disclosed by paragraph (a) above, the prospectus or offering circular should include the following language, or substantially similar language acceptable to the Commissioner:

The Company's management believes that the terms of this transaction were (are) no less favorable to the company than would have been obtained from a non-affiliated third party for similar (services) (equipment) (space) (or whatever descriptive term is appropriate).

If the inclusion of such language would be false or misleading, or tend to work a fraud upon the investor, complete disclosure of the transaction should be included in the prospectus or offering circular.

SDiv 2037 Voting Rights of Common Stock. (a) Common shares and similar equity securities shall have equal voting rights on all matters where such vote is permitted by applicable law.

(b) If an issuer has more than one class of common stock authorized, the offering to the public of a class of common stock that has (1) no voting rights or (2) less than equal voting rights in proportion to the shares of each class outstanding, shall not be registered, regardless of preferential treatment on matters such as dividends or liquidation (unless such preference be a satisfactory substitute, in the discretion of the Commissioner, for such voting rights).

(c) The intent of this regulation shall not be circumvented by the issuance of securities convertible into common stock, or securities voting with the common, unless the issuance thereof can be justified to the Commissioner. Nothing herein, however, shall prevent increased voting rights as described in SDiv. 2043.

SDiv 2038 Assessments. Corporate securities should be nonassessable, except that (a) issuers organized solely to supply services or property to their members on a continuing basis may provide for an equitable assessment corresponding to the services or property supplies; or

(b) where applicable laws require assessments, such assessable securities will be allowed; provided, however, that full and complete disclosure of such assessability is provided the investor in the prospectus or offering circular.

SDiv 2039 Speculative Issues. As a condition to permitting any offering involving securities which the Commissioner shall deem speculative, the Commissioner may require any one or more of the following:

(a) that the prospectus or offering circular conspicuously state on its cover or the following two printed pages that the securities offered thereby are speculative or a brief description of the material risks involved in the purchase of the securities with a cross-reference to further discussion (in greater detail) in the body of the prospectus and/or that each investor receive a statement concerning the speculative nature of the securities, sign a copy thereof, and file same with the Commissioner;
[amended, effective 2-21-81]

(b) that the prospectus or offering circular conspicuously state on its cover or the following two printed pages that the offering involves substantial dilution of the book value of the common stock from the public offering price and further state within its body, in reasonable detail, the amount and nature of such dilution;
[amended, effective 2-21-81]

(c) that the prospectus include an undertaking to make available, on a quarterly or semi-annual basis, summary statements of earnings, and on an annual basis audited statements of earnings and financial condition, to the Commissioner, its stockholders and any registered dealer making a market in such securities, for a period not to exceed two (2) years from the date of effectiveness of the registration.

SDiv 2040 Sliding Scale Contracts. (A) No securities except as hereinafter provided, shall be sold pursuant to a contract whereby the price of the securities varies among different purchasers of the same offering or whereby such price varies as a result of the quantity of securities sold, except that in the case of quantity discounts qualification may be approved provided that there is compliance with all of the following six conditions.

(1) There is no variance in the net proceeds to the issuer from the sale of the securities to different purchasers of the same offering;

(2) All purchasers of the securities are informed of the available quantity discounts;

(3) The same quantity discounts are allowed to all purchasers of all securities which are part of the offering;

(4) The minimum amount of securities on the purchase of which quantity discounts are allowed is not less than $10,000;

(5) The variance in the price of the securities results solely from a different range of commissions, no discounts are allowed to any group of purchasers, and all discounts allowed are based on a uniform scale of commissions;

(6) The applicant for registration of the securities justifies allowance of the proposed quantity discounts by a showing that the aggregate amount thereof does not exceed, and that the measure of such discounts is reasonably related to, the savings of selling expense to be achieved in the sale of the quantities of securities of which such discounts are allowed.

(b) The foregoing rule does not prohibit a quantity discount offered by an investment company registered under the Investment Company Act of 1940, as permitted by the Regulations under that Act, and does not apply to qualified stock options or debt instruments.

SDiv 2041 Inactive Companies. An application to qualify securities or continue registration of securities for nonissuer transactions should show that the issuer's assets are productively employed in the operation of an on-going business. Ordinarily an issuer showing annual gross receipts from operations of not less than $250,000 will be deemed to meet this requirement.

Subchapter 2 — Senior Securities.

SDiv 2042 Dividend and Interest Coverage. (a) **Preferred Stock.** In connection with the offering of preferred stock, whether or not convertible, the net earnings of the issuer, computed in accordance with generally accepted accounting principles, after taxes and exclusive of extraordinary income, for

(1) its last fiscal year prior to the public offering, or

(2) the average of its last three fiscal years prior to the public offering, shall be sufficient to cover the dividends on the securities proposed to be offered to the public.

(b) **Debt Securities.** In connection with the offering of debentures, notes, bonds, investment certificates, or similar interest-bearing securities, whether convertible or not, the cash flow of the issuer, computed in accordance with generally accepted accounting principles, exclusive of extraordinary income, for

(1) its last fiscal year prior to the public offering, or

(2) the average of its last three fiscal years prior to the public offering, shall be sufficient to cover the interest on the securities proposed to be offered to the public.

(c) If the issuer has made, or proposes to make, any material acquisitions subsequent to the last year specified in (a) or (b) of this regulation, the earnings or cash flow for such year shall be restated on a pro forma basis to include such acquisitions provided however, that if the earnings or cash flow tests of (a) or (b) of this regulation would not be met without an entity which, at the date of registration, has not yet been acquired, then appropriate protective provisions, such as an impoundment of all proceeds of the offering, shall be made to the end that should the acquisition not take place, the proceeds of the offering would be returned to the purchasers.

(d) This regulation shall not apply to the offering or sale of securities of a non-profit or community development issuer, so long as the prospectus or offering circular, and all advertising material contain prominent disclosure of the financial condition of the issuer.

(e) If the securities proposed to be offered are unconditionally guaranteed, both as to interest or dividends and as to the repayment of principal, by an entity other than the issuer, then the earnings or cash flow of the guarantor shall be used in determining whether the securities qualify for registration pursuant to (a) or (b) above.

SDiv 2043 Voting Rights of Preferred Stock. In the case of an offering or proposed offering of preferred shares (which are non-participating and non-convertible) without full voting rights, provision should be made under which the holders of such preferred shares shall have the right to reasonable representation on the board of directors of the issuer upon default, for a reasonable, specific period, whether consecutive or not, of payment of dividends on such preferred shares, which right shall continue until the full payment of all arrears in dividends on such preferred shares. The right to elect a majority of the board of directors is presumptively reasonable.

SDiv 2044 Protective Provisions for Preferred Shares. The charter documents of a corporation proposing to issue preferred shares which are nonparticipating and nonconvertible should normally provide reasonable protective provisions for the preferred shareholders, including where appropriate (a) a provision that the dividends on such shares shall be cumulative,

(b) a provision prohibiting any dividends on common stock during the existence of any arrears on the preferred shares,

(c) an appropriate requirement for the approval by the vote or written consent of a specified percentage of the preferred shares of any adverse change in the rights of such shares and of the issuance of any shares having priority over such preferred shares, and

(d) appropriate dividend restrictions on the common stock.

SDiv 2045 Debt Securities. The indenture or other instrument pur-

suant to which non-convertible debt securities are proposed to be issued should normally provide for the following:

(a) A sinking fund provision whereby all or a reasonable portion of the issue is to be retired in installment prior to maturity. The deferral of sinking fund payments and the amount of the balloon payment at maturity which will be permitted will depend upon the financial condition and other circumstances of the issuer.

(b) An appropriate negative pledge or equal protection clause restricting the creation of liens on the property of the issuer.

(c) If the debt is unsecured, an appropriate restriction on the creation of other funded debt.

(d) An appropriate restriction on the payment of dividends upon stock of the issuer.

Such protective provisions will not be required in connection with debt securities having a rating making such provisions unnecessary.

SDiv 2046 Convertible Senior Securities. The charter documents or other instruments of a corporation proposing to issue convertible preferred shares or the indenture or other instrument pursuant to which convertible debt securities or options or warrants are proposed to be issued should normally contain an appropriate antidilution provision providing for an adjustment of the number of shares into which such shares or units are convertible or the number of shares purchasable pursuant to such options or warrants upon any stock split or stock dividend or other recapitalization of the issuer.

Subchapter 3 — Investment Companies.

SDiv 2047 Definitions. Terms appearing in this subchapter which also appear in, and are defined by, the Investment Company Act of 1940 shall be accorded the same meaning within this subchapter as assigned by that Act.

SDiv 2048 Application. Every investment company shall comply with the regulations in this subchapter except that closed-end companies shall be governed by the provisions of SDiv 2057 where that regulation conflicts with any other regulation of this subchapter.

SDiv 2049 Investment Restrictions. The investments of the company shall be restricted in the following respects:

(a) No diversified investment company shall purchase the securities of any issuer, excluding government securities, if, by reason thereof the value of its investment in all securities of that issuer will exceed 5% of the value of its total assets, provided however, that this limitation shall not apply to shares of an investment company acquired in connection with a merger, consolidation or acquisition of assets between investment companies. The surviving company in such a merger, consolidation or acquisition shall, in addition, have ninety (90) days within which to adjust its portfolio holdings to conform to the limits set by this section.

(b) The company may not purchase or retain any securities of another issuer of which those persons affiliated with the fund or its investment adviser or manager owning, individually, more than one-half of one percent of said issuer's outstanding stock (or securities convertible into stock) own, in the aggregate, more than five percent of said issuer's outstanding stock (or securities convertible into stock).

(c) The company shall not purchase any securities of the classes herein defined, if by reason thereof the value of its aggregate investment in such classes of securities will exceed the respective amounts set forth below:

(1) 10% of its total assets in securities of issuers which the company is restricted from selling to the public without registration under the Securities Act of 1933.

(2) 5% of its total assets in securities of unseasoned issuers, including their predecessors, which have been in operation for less than three years, and equity securities of issuers which are not readily marketable.

(3) 5% of its total assets in puts, calls, straddles, spreads, and any combination thereof.

(4) 5% of its total assets in securities of another investment company, except that there shall be no such limitation when a merger consolidation or acquisition of assets between the companies is involved.

(d) The investment by any company of any part of its total assets in any of the following is not permitted:

(1) real estate or interests therein, excluding readily marketable securities.

(2) commodities or commodity futures contracts, or

(3) interests in oil, gas, or other mineral or exploration or development programs, excluding readily marketable securities.

(e) The fundamental investment policies of the company shall be stated in the prospectus in reasonable detail and shall not be materially changed in any respect unless authorized by the vote of a majority of the outstanding voting securities of the company.

SDiv 2050 Speculative Activities. The policy stated or followed by any investment company of engaging in any material respect in any of the following or related speculative activities, whether individually or in combination, and the relatively greater risks or costs involved in such activities, shall be disclosed or clearly referred to in bold face type on the cover or the following two printed pages of the prospectus or on a prospectus supplement satisfactory in form to the Commissioner:

(a) Borrowing money for investment in securities, excluding borrowing for temporary purposes.

(b) Purchasing securities for short-term trading but excluding money market funds or other investment companies whose portfolio holdings consist substantially of debt instruments.

(c) Purchasing restricted securities as herein defined.

(d) Purchasing put or call options or combinations thereof.

(e) Short selling of securities, excluding short selling against the box. *[amended, effective 2-21-81]*

SDiv 2051 Maximum Expenses. [Repealed, 1981; number reserved for future use.

SDiv 2052 Minimum Capitalization. An investment company having net assets of less than $1,000,000 or an affiliated investment adviser with less than an aggregate of $100,000,000 under management may not qualify its securities for registration unless:

(a) the securities are being offered pursuant to a firm underwriting commitment which will, upon expiration of the initial offering period, capitalize the fund at not less than $1,000,000; or

(b) all proceeds of the offering are deposited in an escrow account, subject to their return in full to the investors if the minimum capitalization of $1,000,000 is not achieved within three months after the date of the offering. *[amended, effective 2-21-81]*

SDiv 2053 Redemption. All payments by an investment company upon redemption of securities of which it is the issuer shall be made in cash, except that the payments in cash by a company which has filed an election pursuant to Rule 18f-1 under the Investment Company Act of 1940 may be limited to the amount specified thereunder. The company shall give prompt written notice to the Commissioner prior to effecting any redemption in assets other than cash, specifying the manner in which such redemption will be effected and the securities to be distributed upon redemption. The redemption fee payable by any shareholder shall not exceed 1% of the amount receivable upon redemption of his shares, except that if the shares of a company are sold without sales commissions, the redemption fee shall not exceed 2% of such amount.

SDiv 2054 Allocation of Brokerage Transactions. An investment company shall not effect any brokerage transactions in its portfolio securities with any broker-dealer affiliated directly or indirectly with its investment adviser or manager, or with any broker-dealer providing the investment adviser or manager with statistical or research information or other services which might be of value to the adviser or manager,

unless such transactions are effected at competitive brokerage rates. A statement that all portfolio securities will be purchased and sold through a particular broker-dealer or group of broker-dealers, without the further qualification that the company will seek the best price and service available, will be considered unfair per se. The Commissioner may require the company to file periodic reports concerning all brokerage transactions.

SDiv 2055 Contractural or Periodic Payment Plans. An investment company offering contractural or periodic payment plans for the accumulation of securities of another investment company, or of its own securities through single payment or periodic payment plans shall be subject to the following restrictions:

(a) The fee payable by the investor as compensation for services of the custodian or services delegated to others by the custodian in maintaining the plans shall be reasonable in light of the services required to be rendered. The following information shall be included in one section of the prospectus:

(1) a statement clearly setting forth all deductions which may be made from plan payments, from fund shares, or from distributions of dividends and capital gains including, but not limited to:

(aa) sales charges

(bb) custodian fees to be deducted prior to completion of the plan expressed as a dollar amount and as a percentage of both the minimum and maximum monthly plans;

(cc) custodian fees to be deducted after completion of plan payments;

(dd) penalties for late payments of any periodic installment;

(ee) charges upon liquidation, withdrawal, or transfer of a shareholder's account; and

(ff) charges for any other bookkeeping or administrative services the custodian or sponsor may perform.

(2) A statement that these charges are in addition to the costs to which the shares of the underlying fund are subject, including the pro-rata management fees and all other expenses paid by the underlying fund.

(3) If the shares of the underlying fund may be purchased separately, a statement to that effect and a statement that the costs of acquiring and holding those shares would be substantially reduced if they were purchased separately.

(b) The investment company offering the contractual plans must have the right to purchase shares of the underlying investment company at their net asset value without imposition of any sales charges.

(c) The distribution of any prospectus of the company offering the contractural plans in connection with the solicitation of a resident of

this State shall be accompanied by the prospectus of the underlying investment company.

(d) Any charges occasioned by a late payment under a contractural plan, or by liquidation or transfer of a shareholder's interest, or for any bookkeeping or administrative services the custodian may perform, must bear a reasonable relationship to actual administrative costs incurred by the custodian or trustee by virtue of his performance of such services.

(e) In the event of default in one or more of the monthly payments the investor shall be given a grace period of not less than ninety days in which to cure the default before forced liquidation.

(f) The operational aspects of the plans must be fully disclosed and clearly explained, and the offering in all other respects must comply with SDiv 2047-2057.

SDiv 2056 Mutual Fund and Insurance Plans. (a) Any company offering to investors a portfolio of mutual fund shares to be pledged as security for a loan by the company in payment of the premium on a policy of insurance shall be subject to the following requirements:

(1) The investment company shares to be offered to residents of this State shall be limited to those which could be sold in conformity with Minnesota Statutes, 1974, Sections 80A.10 or 80A.11.

(2) The policy of insurance offered by the company shall be written only by an insurance company licensed to write insurance by the Insurance Division of the Department of Commerce of the State of Minnesota.

(3) Distribution of the securities shall be made only through persons who are licensed both as securities agents and insurance agents by the Department of Commerce of this State.

(4) The purchaser of a plan shall have the right of discontinuing the insurance policy at any time without forfeiting any interest in the accumulated securities, other than that interest required to satisfy the liability for any portion of the loan which may become due and payable upon discontinuance.

(5) The purchaser of a plan shall have the right to discontinue the purchase of securities without forfeiting any securities already purchased, other than those required to satisfy his liability for the loan which may become due and payable upon discontinuance, and without forfeiting or causing the cancellation of the policy of insurance.

(6) The rate of interest charged by the company upon the loan which pays the premium on the insurance contract shall not exceed the maximum rate allowable under Minn. Stat. Sec. 334.01 (1971).

(7) The operational aspects of the plans and the penalizing effect of early termination or failure to maintain the required minimum investment balance must be fully disclosed, and all other aspects of the offering must appear fair and equitable.

(b) The application for registration shall be accompanied by a statement by the issuer containing the following information:

(1) A list of all mutual funds proposed to be offered to residents of Minnesota and a statement that each mutual fund so listed is registered for sale in this State;

(2) A list of all insurance companies writing policies to be offered to residents of Minnesota and a statement that each insurance company so listed is licensed to write insurance in this State;

(3) A statement that all persons authorized to distribute plans in Minnesota are licensed both as a securities agent and an insurance agent by the Department of Commerce.

SDiv 2057 Closed End Investment Companies. In addition to the requirements of this subchapter, the following shall apply to closed end investment companies. If any of the other requirements of this subchapter conflict with the requirements contained herein, those contained herein shall apply to closed-end investment companies. "Closed-end investment company" or "closed-end fund" means an investment company (as defined in the Investment Company Act of 1940) the equity securities of which are not redeemable.

(a) The offer or sale of securities of a closed-end investment company, as defined in the Investment Company Act of 1940, may be deemed unfair and inequitable to the purchasers thereof unless its prospectus, advisory contract, or organizational instruments include provisions satisfying the following requirements. Each registered investment company shall notify the Commissioner promptly when it is not in compliance with any of the following requirements, and its registration statements shall be subject to revocation or suspension.

(b) No closed-end fund shall be registered for public offering in this state unless such fund adheres to, and discloses in its prospectus, each of the following policies:

(1) The fund shall not at the time of purchase, as to 100% of its total assets:

(aa) invest more than 30% of its total assets in restricted debt securities; unless permitted by the Commissioner upon proper justification;

(bb) invest more than 15% of its total assets in all forms of illiquid securities, including, but not limited to, commodities, real estate, general and limited partnership interests, oil and gas interests, options and warrants, puts, calls, straddles, spreads, and restricted securities, except as provided in (1) above;

(cc) invest in securities carrying more than 10% of the voting rights of any issuer;

(dd) invest in more than 10% of the equity securities of any one issuer;

(ee) invest more than 10% of its total assets in the securities of real

estate investment trusts or other investment companies, provided that investments in excess of 10% may be permitted by the Commissioner upon a showing that such investments involve no duplication to management or advisory services with those of the fund.

(2) The fund shall not at any time, as to 75% of its total assets, invest more than 5% of such assets in the securities of any one issuer, exclusive of government securities.

(3) The fund shall not effect any brokerage transactions in its portfolio securities with any broker-dealer affiliated directly or indirectly with its investment adviser or manager, unless such transactions (including the frequency thereof, the receipt of commissions payable in connection therewith, and the selection of the affiliated broker-dealer effecting such transactions) are not unfair or inequitable to the shareholders of the fund.

(c) Notwithstanding paragraph (b) above, because of the possible risk to the investor, no closed end fund which engages in any of the following or related speculative activities shall be registered for public offering in this state unless the appropriate disclosure is made in bold face type on the cover of both the preliminary and final prospectuses, or on a prospectus supplement satisfactory in form to the Commissioner, as follows:

"These securities may involve a high degree of risk because the fund is authorized:

(1) to engage in short term trading resulting in portfolio turnover greater than 100 percent annually (see page _____).

(2) to leverage more than 10 percent of its total assets (see page _____).

(3) to invest more than 5 percent of assets in restricted securities exclusive of debt securities (see page _____).

(4) to engage in short sales, excluding short sales against the box (see page _____).

(5) to invest more than 5 percent of its total assets in foreign securities where the fund must pay an interest equalization tax.

(6) in relation to 75 percent of its total assets, to invest more than 5 percent of such assets in any one issuer."
[amended, effective 2-21-81]

Subchapter 4—Real Estate Limited Partnerships.

SDiv 2058 Definitions. (a) **Acquisition Fee**—the total of all fees and commissions paid in connection with the purchase, construction, or development of property by a program. Included in the computation of such fees or commissions shall be any real estate commission, acquisition fee, selection fee, development fee, construction fee, non-recurring management fee, or any fee of a similar nature, however designated.

(b) **Appraised Value**—value according to an appraisal made by an independent qualified appraiser.

(c) **Assessments**—additional amounts of capital which may be man-

datorily required of or paid at the option of a participant beyond his subscription commitment.

(d) **Capital Contribution**—The gross amount of investment on a program by a participant, or all participants as the case may be.

(e) **Cash Flow**—program cash funds provided from operations, including lease payments on net leases from builders and sellers, without deduction for depreciation, but after deducting cash funds used to pay all other expenses, debt payments, capital improvements and replacements.

(f) **Cash Available for Distribution**—Cash available for distribution shall mean cash flow less amount set aside for restoration or creation of reserves.

(g) **Construction Fee**—a fee for acting as general contractor to construct improvements on a program's property either initially or at a later date.

(h) **Cost of Property**—the sum of the price paid by the buyer for property plus all costs, payments, and expenses and cost of improvements, if any, reasonably and properly allocable to the property in accordance with generally accepted accounting principles (cost may include acquisition fees, loan "points", prepaid interest, and debts).

(i) **Development Fee**—a fee for the packaging of a program's property, including negotiating and approving plans, and undertaking to assist in obtaining zoning and necessary variances and necessary financing for the specific property, either initially or at a later date.

(j) **Net Worth**—the excess of total assets over total liabilities as determined by generally accepted accounting practices.

(k) **Non-Specified Property Program**—a program where, at the time a securities registration is ordered effective, less than 75% of the net proceeds from the sale of program interests is allocable to the purchase, construction, or improvement of specific properties. Reserves shall be included in the non-specified 25%.

(l) **Participant**—the holder of a program interest.

(m) **Program Management Fee**—a fee paid to the sponsor or other persons for management and administration of the program.

(n) **Property Management Fee**—the fee paid for day-to-day professional property management services in connection with a program's real property projects.

(o) **Sponsor**—a "sponsor" is any person directly or indirectly instrumental in organizing, wholly or in part, a program or any person who will manage or participate in the management of a program, and any affiliate of any such person, but does not include a person whose only relation with the program is as that of an independent property manager, whose only compensation is as such. "Sponsor" does not include wholly independent third parties such as attorneys, accountants, investment advisors, and underwriters whose only compensation is for professional services rendered in connection with the offering of syndicate interests.

SDiv 2059 Requirement of Sponsors. (a) **Experience.** The sponsor, general partner, the chief operating officer, or an affiliate providing services to the program shall have had not less than two years relevant experience in the real estate field, shall have had not less than four years relevant experience in the kind of service being rendered or otherwise must demonstrate sufficient knowledge and experience to perform the services proposed and shall have the knowledge and experience to acquire and manage the type of properties to be acquired.

(b) **Net Worth Requirement of General Partner.** The financial condition of the general partner or general partners must be commensurate with any financial obligations assumed in the offering in the operation of the program. At a minimum, the net worth of the general partner(s) shall be the greater of:

(1) an amount at least equal to 5% of all offerings sold within the prior 12 months plus 5% of the gross amount of the current offering, or

(2) 15% of the gross amount of the current offering in offerings of less than $2,500,000. If the offering exceeds $2,500,000, the net worth must be at least 10% of the gross amount of the offering.

However, in no event shall the required net worth exceed $1,000,000. In determining net worth for this purpose, promissory notes shall be excluded and depreciation of real property owned by the general partner(s) shall be included. Also, evaluation will be made of contingent liabilities to determine the appropriateness of their inclusion in computation of net worth. Net worth of individual sponsors shall be determined exclusive of home, home furnishings, and automobiles.

(c) **Reports to Commissioner.** The sponsor shall submit to the Commissioner any information required to be filed with the Commissioner, including, but not limited to, reports and statements required to be distributed to limited partners.

(d) **Liability.** Sponsors shall not be indemnified by the participants for acts of negligence or misconduct or for the breach of any fiduciary obligation imposed upon the sponsors by law.

(e) **Additional Requirements.**

(1) the sponsor shall maintain an ongoing place of business.

(2) the sponsor shall have full time employees who will devote a reasonable portion of their time to partnership business, or, in the alternative, shall show to the satisfaction of the Commissioner that adequate management arrangements have been made.

(3) the sponsor shall provide evidence of ability to act in a fiduciary capacity for the limited partners; such evidence may include the holding of a state granted or regulated securities or real estate license.

SDiv 2060 Suitability of the Participant. (a) Given the limited transferability, the relative lack of liquidity, and the specific tax orientation of many real estate programs, the sponsor and its selling representatives should be cautious concerning the persons to whom such securities are marketed. Suitability standards for investors will, therefore, be imposed which are reasonable in view of the foregoing and of the type of

program to be offered. Sponsors will be required to set forth in the prospectus the investment objectives as a program, a description of the type of person who could benefit from the program and the suitability standards to be applied in marketing it. The suitability standards proposed by the sponsor will be reviewed for fairness by the Commissioner in processing the application. In determining how restrictive the standards must be, special attention will be given to the existence of such factors as high leverage, substantial prepaid interest, balloon payment financing, excessive investments in unimproved land, and uncertain or no cash flow from program property. As a general rule, programs structured to give deductible tax losses of 50% or more of the capital contribution of the participant in the year of investment should be sold only to persons in higher income tax brackets considering both state and federal income taxes. Programs which involve more than ordinary investor risk should emphasize suitability standards involving substantial net worth of the investor.

(b) **Sales to Appropriate Persons.**

(1) The sponsor and each person selling limited partnership interests on behalf of the sponsor or partnership shall make every reasonable effort to assure that those persons being offered or sold the limited partnership interests are appropriate in light of the suitability standards set forth as required above and are appropriate to the investor's investment objectives and financial situations.

(2) The sponsor or his representative shall ascertain that the investor can reasonably benefit from the program, and the following shall be relevant to such determination:

(aa) The investor has the capacity of understanding the fundamental aspects of the Program, which capacity may be evidenced by the following:

(i) the nature of employment experience;

(ii) educational level achieved;

(iii) access to advice from qualified sources, such as attorney, accountant, tax adviser, etc.;

(iv) prior experience with investments of a similar nature.

(bb) The investor has apparent understanding:

(i) of the fundamental risks and possible financial hazards of the investments;

(ii) of the lack of liquidity of this investment;

(iii) that the investment will be directed and managed by the sponsor; and

(iv) of the tax consequences of the investment.

(cc) The investor has the financial capability to invest in this program.

(c) **Maintenance of Records.** The sponsor shall maintain a record of the information obtained to indicate that a participant meets the suit-

ability standards employed in connection with the offer and sale of its interests and a representation of the participant that he is purchasing for his own account or, in lieu of such representation, information indicating that the participants for whose account the purchase is made meet such suitability standards. Such information may be obtained from the participant through the use of a form which sets forth the prescribed suitability standards in full and which includes a statement to be signed by the participant in which he represents that he meets such suitability standards and is purchasing for his own account. However, where the offering is underwritten or sold by a broker-dealer, the sponsor shall obtain a commitment from the broker-dealer to maintain the same record of information required of the sponsor.

(d) **Minimum Investment.** In income-oriented offerings, a minimum initial cash purchase of $2,500.00 per investor shall be required. In tax oriented offerings the minimum initial cash purchase shall be $5,000 per investor. Assignability of the interests must be limited so that no assignee (transferee) or assignor (transferor) may hold interests less than the minimum purchase, except by gifts; inheritance, intra-family transfers, family dissolutions, transfers to affiliates, or by operation of law.

SDiv 2061 Fees, Compensation and Expenses. (a) **Fees, Compensation and Expenses to be Reasonable.**

(1) The total amount of compensation of all kinds which may be paid directly or indirectly to the sponsor or its affiliates shall be reasonable, considering all aspects of the program and the investors. Such compensation may include:

(aa) Organization and offering expenses

(bb) Compensation for acquisition, development or construction services

(cc) Compensation for program management, or property management fee

(dd) Additional compensation to the sponsor subordinated interests and promotional interests

(ee) Real estate brokerage commissions on sale or resale of property

(2) Except to the extent that a subordinated interest is permitted for promotional activities pursuant to paragraph (e) hereof, compensation may only be paid for reasonable and necessary goods, property or services.

(3) The application for qualification or registration and the prospectus or offering circular must fully disclose and itemize all compensation which may be received from the program directly or indirectly by the sponsor, its affiliates and underwriters, what the compensation is for and how and when it will be paid. This shall be set forth in one location in tabular form.

(b) **Organization and Offering Expenses.** All organizational and offering expenses, including commissions, incurred in order to sell program

interests shall be reasonable. In no event shall these expenses exceed 15% of the gross proceeds of the offering.

(c) **Compensation for Acquisition Services.**

(1) The total of all acquisition fees paid to the sponsor or an affiliate involved in the transaction by the program and any other person shall not exceed 18% of the gross proceeds of the offering. The acquisition fee paid to the sponsor shall be reduced to the extent that other real estate commissions, acquisition fees, finder's fees, or other similar fees or commissions are paid by any person in connection with the transaction.

(2) The sponsor shall set forth in a separate section in the forepart of the prospectus the amount of all acquisition fees which may be received or paid. This amount shall be expressed in both absolute dollars and as a percentage of the gross proceeds of the offering and may in addition be expressed as a percentage of the cost of property.

(3) The sum of the purchase price of the program's properties plus the acquisition fees paid shall not exceed the appraised value of the properties.

(d) **Program or Property Management Fee.**

(1) A sponsor of a program owning unimproved land shall be entitled to annual compensation not exceeding ¼ of 1% of the cost of such unimproved land for operating the program until such time as the land is sold or improvement of the land commenced by the limited partnership. In no event shall this fee exceed a cumulative total of 2% of the original cost of the land regardless of the number of years held.

(2) A sponsor of a program holding property in government subsidized projects shall be entitled to annual compensation not exceeding ½ of 1% of the cost of such property for operating the program until such time as the property is sold.

(3) A sponsor of a program owning improved land other than that specified in (2) above, shall be entitled to annual compensation not exceeding 5% of gross income from the properties as a property management fee.

(e) **Subordinated Interests.** An adequately subordinated interest in the limited partnership will be allowed as a promotional interest and as an additional management fee. Such an interest shall be within the limitations expressed in either subparagraph below:

(1) An interest equal to 25% in the undistributed cash amounts remaining after payment to investors of an amount equal to 100% of capital contribution; or

(2) An interest equal to:

(aa) 10% of distributions from cash available for distribution; and

(bb) 15% of cash distributions to investors from the proceeds from the sale or refinancing of properties after payment to investors of an amount equal to 100% of capital contributions, plus an amount

equal to 6% of capital contributions per annum cumulative, less the sum of prior cash distributions to investors.

(f) Real Estate Brokerage Commissions.

(1) Payment of all real estate brokerage commissions shall not be in excess of the standard commission in the area in which the property is located.

(2) If the sponsor or an affiliate is to receive a commission on the resale of property, said commission may not exceed 50% of the standard commission in the area in which the property is located.

(3) A program shall not pay, directly or indirectly, a commission or fee to a sponsor in connection with the reinvestment of the proceeds of any resale, exchange, or refinancing of program property.

SDiv 2062 Conflicts of Interest and Investment Restrictions (a) **Sales, leases and loans.**

(1) **Sales and Leases to Program.** A program shall not purchase or lease property in which a sponsor has an interest unless:

(aa) The transaction occurs at the formation of the program and is fully disclosed in its prospectus or offering circular, and

(bb) The property is sold upon terms no less favorable to the program than could be obtained from nonaffiliated third parties, and at a price not in excess of its appraised value, and

(cc) The cost of the property, and any improvements thereon, to the sponsor is clearly established. If the sponsor's cost was less than the price to be paid by the program, the price to be paid by the program will not be deemed fair, regardless of the appraised value, unless some material change has occurred to the property which would increase the value since the sponsor acquired the property. Material factors may include the passage of a significant amount of time (but in no event less than 2 years), the assumption by the sponsor of the risk of obtaining a re-zoning of the property and its subsequent re-zoning, or some other extraordinary event which in fact increases the value of the property.

(dd) The provisions of this subsection notwithstanding, the sponsor may purchase property in its own name (and assume loans in connection therewith) and temporarily hold title thereto for the purpose of facilitating the acquisition of such property or the borrowing of money or obtaining of financing for the program, or completion of construction of the property, or any other purpose related to the business of the program, provided that such property is purchased by the program for a price no greater than the cost of such property to the sponsor, there is no difference in interest rates of the loans secured by the property at the time acquired by the sponsor and the time acquired by the program, nor any other benefit arising out of such transaction to the sponsor apart from compensation otherwise permitted by these rules.

(2) **Sales and Leases to Sponsor.** The program will not ordinarily be permitted to sell or lease property to the sponsor except that the

program may lease property to the sponsor under a lease-back arrangement made at the outset and on terms no less favorable to the program than those offered other persons and fully described in the prospectus.

(3) **Loans.** No loans may be made by the program to the sponsor or affiliate.

(4) **Dealings with Related Programs.** A program shall not acquire property from a program in which the sponsor has an interest.

(b) **Exchange of Limited Partnership Interests.** The program may not acquire property in exchange for limited partnership interests, except for property which is described in the prospectus which will be exchanged immediately upon effectiveness. In addition, such exchange shall meet the following conditions:

(1) A provision for such exchange must be set forth in the partnership agreement, and appropriate disclosures as to tax effects of such exchange are set forth in the prospectus.

(2) The property to be acquired must come within the objectives of the program.

(3) The purchase price assigned to the property shall be no higher than the value supported by an independent, qualified appraisal.

(4) No more than one-half of the interests issued by the program shall have been issued in exchange for property, and

(5) No securities sales or underwriting commissions shall be paid in connection with such exchange.

(c) **Exclusive Agreement.** A program shall not give a sponsor sole right to sell or exclusive employment to sell property for the program.

(d) **Services Rendered to the Program by the Sponsor.** All services performed by the sponsor for the program must be reasonable in type and amount. As a minimum, self-dealing arrangements must meet the following criteria:

(1) the compensation, price or fee therefor must be comparable and competitive with the compensation, price or fee of any other person who is rendering comparable services or selling or leasing comparable goods which could reasonably be made available to the program and shall be on competitive terms, and

(2) the fees and other terms of the contract shall be fully disclosed in the prospectus, and

(3) the sponsor must be previously engaged in the business of rendering such services or selling or leasing such goods, independently of the program and as an ordinary and on-going business, and

(4) all services or goods for which the sponsor is to receive compensation shall be embodied in a written contract which precisely describes the services to be rendered and all compensation to be paid. Said contract shall contain a clause allowing termination without penalty on 60 days notice.

(e) **Commingling of Funds.** The funds of a program shall not be commingled with the funds of any other person.

(f) **Expenses of the Program.** All expenses of the program shall be billed directly to the program. Reimbursement (other than for the organization and offering expenses) shall be prohibited.

(g) **Investments in Other Programs.** Investments in limited partnership interests of another program shall be prohibited; however, nothing herein shall preclude the investment in partnerships or ventures which own and operate a particular property. In such event, duplicate property management or other fees shall not be permitted, and such partnership or venture shall provide for its limited partners all of the rights and obligations required to be provided by the original program in SDiv. 2064. Further, such prohibitions shall not apply to programs under Sections 236 or 221(d)(3) of the National Housing Act or any similar programs that may be enacted.

(h) **Lending Practices.**

(1) On financing made available to the program by the sponsor, the sponsor may not receive interest and other financing charges or fees in excess of the amounts which would be charged by unrelated banks on comparable loans for the same purpose in the locality of the property. No prepayment charge or penalty shall be required by the sponsor on a loan to the program secured by a junior or all-inclusive encumbrance on the property, except to the extent that such prepayment charge or penalty is attributable to the underlying encumbrance.

(2) An "all-inclusive" or "wrap-around" note and deed of trust (the "all-inclusive note" herein) may be used to finance the purchase of property by the program only if it appears that it would provide significant tangible benefits not available from conventional financing methods. In such cases the all-inclusive note shall provide that:

(aa) The sponsor under the all-inclusive note shall not receive interest on the underlying encumbrance in excess of that payable to the lender of that underlying encumbrance.

(bb) The program shall receive credit on its obligation under the all-inclusive note for payments made directly on the underlying encumbrance, and

(cc) A paying agent, ordinarily a bank, escrow company, or savings and loan, shall collect payments (other than any initial payment of prepaid interest or loan points not to be applied to the underlying encumbrance) on the all-inclusive note and make disbursements therefrom to the holder of the underlying encumbrance prior to making any disbursement to the holder of the all-inclusive note, subject to the requirements of subparagraph (a) above, or, in the alternative, all payments on the all-inclusive and underlying note shall be made directly by the program.

(k) **Development or Construction Contracts.** The sponsor will not be permitted to construct or develop properties, or render any services in connection with such development or construction unless all of the following conditions are satisfied:

(1) The transactions occur at the formation of the program.

(2) The specific terms of the development and construction of identifiable properties are ascertainable and fully disclosed in the prospectus.

(3) The purchase price to be paid by the program is based upon a firm contract price which in no event can exceed the sum of the cost of the land and the sponsor's cost of construction. If the land is acquired from the sponsor, the provisions of SDiv. 2062(a) shall apply.

(4) In the case of construction, the only fee paid to the sponsor in connection with such activity shall consist of a construction fee for acting as a general contractor, which fee must be comparable and competitive with the fee of disinterested persons rendering comparable services. This limitation does not preclude the payment of a real estate commission in connection with the acquisition of the land, if appropriate under the circumstances.

(l) **Completion Bond Requirement.** The completion of property acquired which is under construction should be guaranteed at the price contracted by an adequate completion bond or other satisfactory arrangements.

(m) **Requirement for Real Property Appraisal.** All real property acquisitions must be supported by an appraisal prepared by a competent, independent appraiser. The appraisal shall be maintained in the sponsor's records for at least five years, and shall be available for inspection and duplication by any participant. The prospectus shall contain notice of this right.

SDiv 2063 Non-Specified Property Programs. The following special provisions shall apply to non-specified property programs:

(a) **Minimum Capitalization.** A non-specified property program shall provide for a minimum gross proceeds from the offering of not less than $1,000,000.00 after payment of all marketing and organization expenses before it may commence business.

(b) **Experience of Sponsor.** For non-specified property programs, the sponsor or at least one of its principals must establish that he has had the equivalent of not less than five years experience in the real estate business in an executive capacity and two years experience in the management and acquisition of the type of properties to be acquired or otherwise must demonstrate to the satisfaction of the Commissioner that he has sufficient knowledge and experience to acquire and manage the type of properties proposed to be acquired by the non-specified property program.

(c) **Statement of Investment Objectives.** A non-specified property program shall state in detail the types of properties in which it proposes to invest, such as first-user apartment projects, subsequent-user apartment projects, shopping centers, office building, unimproved land, etc., and the size and scope of such projects shall be consistent with the objectives of the program and the experience of the sponsors. As a minimum the following restrictions on investment objectives shall be observed:

(1) Unimproved or non-income producing property shall not be acquired except in amounts and upon terms which can be financed totally from the program's proceeds or from cash flow;

(2) Investments in junior trust deeds and other similar obligations shall not exceed 10% of the gross assets of the program.

(3) The manner in which acquisitions will be financed, including the use of an all-inclusive note or wrap-around, and the leveraging to be employed shall all be fully set forth in the statement of investment objectives.

(4) The statement shall indicate whether the program will enter into joint venture arrangements and the projected extent thereof.

(d) **Period of Offering and Expenditure of Proceeds.** No offering of securities in a non-specified property program may extend for more than one year from the date of effectiveness. While the proceeds of an offering are awaiting investment in real property, the proceeds may be temporarily invested in short-term highly liquid investments where there is appropriate safety of principal, such as U. S. Treasury Bonds or Bills. Any proceeds of the offering of the securities not invested within two years from the date of effectiveness (except for necessary operating capital) shall be distributed pro rata to the participants as a return of capital.

(e) **Special Reports.** At least quarterly, a "Special Report" of real property acquisitions within the prior quarter shall be sent to all participants until the proceeds are invested or returned to the participants as set forth in paragraph (d) above. Such notice shall describe the real properties, and include a description of the geographic locale and of the market upon which the sponsor is relying in projecting successful operation of the properties. All facts which reasonably appear to the sponsor to materially influence the value of the property should be disclosed. The "Special Report" shall include, by way of illustration and not of limitation, a statement of the date and amount of the appraised value, if applicable, a statement of the actual purchase price including terms of the purchase, a statement of the total amount of cash expended by the program to acquire each property, and a statement regarding the amount of proceeds in the program which remain unexpended or uncommitted. This unexpended or uncommitted amount shall be stated in terms of both dollar amount and percentage of the total amount of the offering of the program.

(f) **Assessments.** Non-specified programs calling for assessments shall be prohibited.

(g) **Multiple Programs.** Sponsors shall not offer for sale more than one unspecified property program at any point in time unless the programs have different investment objectives. Similarly, new offerings by the same sponsor shall not be permitted if that sponsor has not substantially committed or placed the funds raised from pre-existing unspecified property programs.

SDiv 2064 Rights and Obligations of Participants. (a) **Meetings.** Meetings of the limited partnership may be called by the general partner(s) or the limited partner(s) holding more than 10% of the then

outstanding limited partnership interests, for any matters for which the partners may vote as set forth in the limited partnership agreement. A list of the names and addresses of all limited partners shall be maintained as part of the books and records of the limited partnership and shall be mailed on request to any limited partner or his representative. Upon receipt of a written request either in person or by registered mail stating the purpose(s) of the meeting, the general partner shall provide all partners, within ten days after receipt of said request, written notice (either in person or by registered mail) of a meeting and the purpose of such meeting to be held on a date not less than fifteen nor more than sixty days after receipt of said request, at a time and place convenient to participants.

(b) **Voting Rights of Limited Partners.** The limited partnership agreement shall provide that a majority of the then outstanding limited partnership interests may, without the necessity for concurrence by the general partner, vote to

(1) amend the limited partnership agreement,

(2) dissolve the program,

(3) remove and replace the sponsor(s) and

(4) approve or disapprove the sale of all or substantially all of the assets of the program.

(c) **Reports to Holders of Limited Partnership Interests.** The partnership agreement shall provide that the sponsor shall cause to be prepared and distributed to the holders of program interests during each year the following reports:

(1) In the case of a program registered under Section 12(g) of the Securities Exchange Act of 1934, within sixty days after the end of each of the program quarter, a report containing

(aa) a current statement of financial condition, which may be unaudited,

(bb) an operating statement for the quarter then ended, which may be unaudited, and

(cc) a cash flow statement for the quarter then ended, which may be unaudited, and

(dd) other pertinent information regarding the program and its activities during the quarter covered by report;

(2) In the case of all other programs in addition to the annual report required by paragraph 4 hereof, within sixty days after the end of the program's first six-month period, a semiannual report containing the same information as to the preceding six-month period as that required in quarterly reports under paragraph 1 hereof;

(3) In the case of all programs, within 75 days after the end of each program's fiscal year, all information necessary for the preparation of the limited partner's federal income tax returns;

(4) In the case of all programs, within 120 days after the end of each program's fiscal year, an annual report containing

(aa) a statement of financial condition as of the year then ended, an operating statement for the year then ended, a statement of sources and applications of funds and a cash flow statement, all of which shall be audited by independent certified public accountants, with an opinion expressed therein,

(bb) a report of the activities of the program during the period covered by the report,

(cc) where projections have been provided to the holders of limited partnership interests, a table comparing the projections previously provided with the actual results during the period covered by the report. Such report shall set forth distributions to limited partners for the period covered thereby and shall separately identify distributions from

(dd) Cash Flow from operations during the period,

(ee) Cash Flow from operations during a prior period which had been held as reserves,

(ff) proceeds from disposition of property and investments,

(gg) lease payments on net leases with builders and sellers, and

(hh) reserves from the gross proceeds of the offering originally obtained from the limited partners.

(5) Where assessments have been made during any period covered by any report required by paragraphs 1, 2 and 4 hereof, then such report shall contain a detailed statement of such assessments and the application of the proceeds derived from such assessments; and

(6) Where any sponsor receives fees for services, including acquisition fees from the program, then he shall, within 60 days of the end of each quarter wherein such fees were received, send to each limited partner a detailed statement setting forth the services rendered, or to be rendered by such sponsor and the amount of the fees received.

(d) **Access to Records.** The limited partners and their designated representatives shall be permitted access to all records of the program at all reasonable times. This requirement may not be circumvented by lump-sum payments to management companies or other entities who then disburse the funds.

(e) **Admission of Participants.** Admission of participants to the program shall be subject to the following:

(1) **Admission of original participants.** Upon the original sale of partnership units by the program, the purchasers should be admitted as limited partners not later than 15 days after the release from impound of the purchaser's funds to the program, and thereafter purchasers should be admitted into the program not later than the first day of the calendar month following the date their subscription was accepted by the program. Subscriptions shall be accepted or rejected by the program within 30 days of their receipt; if rejected all subscription monies should be returned to the subscriber forthwith.

(2) **Admission of substituted participants and recognition of as-**

signees. The program shall amend the certificate of limited partnership at least once each calendar quarter to effect the substitution of substituted participants, although the sponsor may elect to do so more frequently. In the case of assignments, where the assignee does not become a substituted limited partner, the program shall recognize the assignment not later than the first day of the calendar month following receipt of notice of assignment and required documentation.

(f) **Transferability of Program Interests.** (1) Assignment of program interests or the economic interests therein are permitted, providing that the opinion of the partnership's counsel is given to the effect

(i) that such assignment is not a violation of the limited partnership laws in effect in the jurisdiction of the program's organization,

(ii) that the program shall be taxable as a partnership rather than as a corporation or an association under the policies of the Internal Revenue Service. Wherever free transferability of program interests or beneficial interests in a limited partnership interest is allowed, a favorable tax ruling from the Internal Revenue Service shall be required. Furthermore, where beneficial interests of a program's interest are to be sold, the treatment under the Investment Company Act of 1940 must be disclosed.

(2) The assignment of limited partnership interest may not be prohibited, but may be restricted only to the minimum extent required to preserve its tax status.

(g) **Assessments.** Limited partnership units shall be non-assessable unless otherwise specified in the prospectus or offering circular. Except as provided in SDiv. 2063(f), assessments shall be limited to not more than 50% of the initial investment of the participant. Registration fees upon assessable securities shall be based on the initial investment plus the amount of any assessments and installment payments to be paid.

(h) **Defaults.** In the event of a default in the payment of assessments by a limited partner, his interests shall not be subject to forfeiture, but may be subject to a reasonable penalty for failure to meet his commitment. Provided that the arrangements are fair, this may take the form of reducing his proportionate interest in the program, subordinating his interest to that of nondefaulting partners, a forced sale complying with applicable procedures for notice and sale, the lending of the amount necessary to meet his commitment by the other participants or a fixing of the value of his interest by independent appraisal or other suitable formula with provision for a delayed payment to him for his interest not beyond a reasonable period, but a debt security issued for such interest should not have a claim prior to that of the other investors in the event of liquidation.

SDiv 2065 Disclosure and Marketing Requirements. (a) **Sales Promotional Efforts.**

(1) **Sales Literature.** Sales literature, sales presentations (including prepared presentations to prospective investors at group meetings) and advertising used in the offer or sale of partnership interests shall conform in all applicable respects to requirements of filing, disclosure and ade-

quacy currently imposed on sales literature, sales presentations and advertising used in the sale of corporate securities.

(2) **Group Meetings.** All advertisements of and oral or written invitations to "seminars" or other group meetings at which program interests are to be described, offered or sold shall clearly indicate that the purpose of such meeting is to offer such program interests for sale, the minimum purchase price thereof, and the name of the sponsor, underwriter and selling agent. No cash, merchandise or other item of value shall be offered as an inducement to any prospective participants to attend any such meeting. In connection with the offer or sale of program interests, no general offer shall be made of "free" or "bargain price" trips to visit property in which the program or proposed program has invested or intends to invest. All written or prepared audiovisual presentations (including scripts prepared in advance for oral presentations) to be made at such meetings must be submitted in advance to the Commissioner not less than five business days prior to the first use thereof. The foregoing paragraphs 1 and 2 shall not apply to meetings consisting only of representatives of securities broker-dealers.

(b) **Projections.** The presentation of predicted future results of operations ("projections") of real estate programs shall be permitted but not required. Such projections shall be included in the prospectus, offering circular or sales material of the partnership only if they comply with the following requirements:

(1) **General.** Projections shall be realistic in their predictions and shall clearly identify the assumptions made with respect to all material features of the presentation. Projections should be prepared by a qualified person or firm and that person or firm should be identified in the prospectus or offering circular as being responsible for the preparation of the projections. No projections shall be permitted in any sales literature which do not appear in the prospectus or offering circular. If any projections are included in the sales literature, all projections must be presented.

(2) **Material Information.** Projections shall include all of the following information:

(aa) Annual predicted revenue by source, including the occupancy rate used in predicting rental revenue and the average occupancy rate for similar properties in the same locale.

(bb) Annual predicted expenses;

(cc) Mortgage obligation-annual payments for principal and interest, points and financing fees; shown as dollars, not percentages.

(dd) The required occupancy rate in order to meet debt service and all expenses; rental revenue shall also be predicted based on occupancy rates 10% below the break-even occupancy rate;

(ee) Predicted annual cash flow; stating assumed occupancy rate;

(ff) Predicted annual depreciation and amortization with full description of methods to be used;

(gg) Predicted annual taxable income or loss and a simplified

explanation of the tax treatment of such results; assumed tax brackets may not be used;

(hh) Predicted construction costs—including disclosure regarding contracts;

(ii) Accounting policies—e.g., with respect to points, financing costs and depreciation.

(3) **Additional Disclosures and Limitations.**

(aa) Projections shall be for a period at least equivalent to the anticipated holding period for the property, or 10 years, whichever is shorter, but they shall definitely project a resale occurrence.

(bb) Adequate disclosure shall be made of the changing economic effects upon the participants resulting principally from federal income tax consequences over the life of the partnership property, e.g., substantial tax losses in early years followed by increasing amounts of taxable income in later years.

(cc) Projections shall disclose all possible undesirable tax consequences of an early sale of the program property (such as, depreciation, recapture or the failure to sell the property at a price which would return sufficient cash to meet resulting tax liabilities of the participants.

(dd) In computing the return to investors, no appreciation, so-called "equity buildup", or any other benefits from unrealized gains or value shall be shown or included.

(4) Projections shall not be allowed for unimproved land. Instead, a table of deferred payments specifying the various holding costs, i.e., interest, taxes, and insurance shall be inserted.

SDiv 2066 Miscellaneous Provisions. (a) **Fiduciary Duty.** The program agreement shall provide that the sponsor shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the program, whether or not in his immediate possession or control, and that he shall not employ, or permit another to employ such funds or assets in any manner except for the exclusive benefit of the program.

(b) **Deferred Payments.** Except where prohibited by Regulation T of the Federal Reserve Board, arrangements for deferred payments on account of the purchase price of program interests may be allowed when warranted by the investment objectives of the partnership, but in any event such arrangements shall be subject to the following conditions:

(1) The period of deferred payments shall coincide with the anticipated cash needs of the program.

(2) Selling commissions paid upon deferred payments are collectible when payment is made on the note.

(3) Deferred payments shall be evidenced by a promissory note of the investor. Such notes shall be with recourse and shall not be negotiable and shall be assignable only subject to defenses of the maker.

Such notes shall not contain a provision authorizing a confession of judgment.

(4) The program shall not sell or assign the deferred obligation notes at a discount to meet financing needs of the program.

(c) **Reserves.** Provision should be made for adequate reserves in the future by retention of a reasonable percentage of proceeds from the offering and regular receipts for normal repairs, replacements and contingencies. Normally, not less than 5% of the offering proceeds will be considered adequate.

(d) **Reinvestment of Cash Flow and Proceeds on Disposition of Property.** Reinvestment of Cash Flow shall be prohibited. The partnership agreement and the prospectus shall set forth that reinvestment of proceeds resulting from a disposition or refinancing will not take place unless sufficient cash will be distributed to pay any state or federal income tax (assuming investors are in a specified tax bracket) created by the disposition or refinancing of property. Such a prohibition must be contained in the prospectus.

(e) **Financial Information Required on Application.** In any offering of interests by a real estate program, the program shall provide as an exhibit to the application, or where indicated below shall provide as part of the prospectus, the following financial information and financial statements. All audited statements shall be prepared by an independent certified public accountant with an opinion expressed thereon.

(1) **Cash Flow Statement of Program.** As part of the prospectus, if the program has been formed and owns specified assets, an audited cash flow statement for the program for each of the last three fiscal years of the program (or for life of the program, if less) and unaudited statements for any interim period between the end of the latest fiscal year and the date of the balance sheet furnished, and for the corresponding interim period of the preceding years.

(2) **Balance Sheet of Program.** As part of the prospectus, an audited balance sheet of the program for the most recent fiscal year and an unaudited balance sheet for a period ending not more than ninety days prior to the date of filing.

(3) **Balance Sheet of Sponsor.** (aa) **Corporate Sponsor.** An audited balance sheet of any corporate sponsors for the same periods and in the same form required for the program itself in Item 2 above. Such statement shall be included in the prospectus.

(bb) **Other Sponsors.** A statement for each non-corporate general partner shall be given the Commissioner (including individual partners or individual joint ventures of a sponsor) setting forth the estimated net worth of each such sponsor at a time not more than ninety days prior to the date of filing an application; such statement shall be signed and sworn to by such sponsors. A representation of the amount of such net worth must be included in the prospectus.

(4) **Profit and Loss Statements for Corporate Sponsors.** Audited profit and loss statements for the last fiscal year of any corporate sponsor (or for the life of the corporate sponsor, if less) and unaudited statements for any interim period ending not more than ninety days prior

to the date of filing an application. The inclusion of such statement in the prospectus shall be at the discretion of the Commissioner.

(f) **Impoundment of Proceeds.** See SDiv. 2022(a)(1).

Subchapter 5. **Oil and Gas Programs**

2120-22406

SDiv 2067 Definitions.

For purposes of this subchapter, the following terms mean:

A. "Administrative and overhead expenses" -- All costs and expenses of the sponsor made in connection with administering the program which are not directly allocable to a lease, well or prospect.

B. "Development well" -- A well drilled to a reservoir proven to be productive of oil or gas and expected to be extended to the drilling area.

C. "Exploratory well" -- Any other well, and in particular a well drilled to search for oil and gas in an unproven area.

D. "Intangible Costs" -- Any costs generally accepted as current expense items for purposes of Federal Income Tax reporting.

E. "Net Profit Interest" -- That interest in net operating income which becomes payable after recapture by the investor of all costs on a particular lease or drilling prospect.

F. "Overriding royalty interest" -- A fractional undivided interest or right of participation in an oil and gas lease in the oil or gas, or in the proceeds from the sale of oil or gas, produced from a specific oil or gas property, such interest being free from the expense of development and operation of the property.

G. "Participant" -- The purchaser of a unit in the oil and gas program.

H. "Payout" -- That point at which the participant has received or credited to his account from the proceeds of production of oil and gas an amount, in dollars, equal to the cumulative, acquisition, exploration and development costs, rentals, production taxes, administrative and overhead expenses, lifting costs, and other costs of operation incurred by the sponsor attributable to or charged against the participant's interest.

I. "Program" -- The total activities in which the proceeds of the offering and any additional proceeds generated thereby will be engaged.

J. "Carried interest" -- A working interest free or partially free of development costs.

K. "Reversionary interest" -- An interest with benefits defined by contract.

L. "Royalty" -- An interest in production which is free from the expense of developing and operating the property to the owner.

M. "Sponsor" -- See SDiv 2058 (o).

N. "Tangible costs" -- Those costs which are generally accepted as capital expenditures for purposes of Federal Income Tax reporting.

O. "Working interest" -- The interest in a property which carries with it the obligation to pay a proportionate share of all costs during the period of time the working interest agreement is in effect including such costs as those resulting from exploration, development and operation of such properties.

SDiv 2068 Experience of Management. The sponsor, general partner, the chief operating officer, or an affiliate providing services to the program shall have had not less than four years relevant experience in the kind of service being rendered or otherwise must demonstrate sufficient knowledge and experience to perform the services proposed.

SDiv 2069 Capitalization of Sponsor and Investment by Sponsor. (a) The financial condition of the sponsor must be commensurate with any financial obligations assumed in the offering in the operation of the program. At a minimum, the sponsor shall have a financial net worth of the greater of either $100,000, or an amount at least equal to 5% of all offerings sold within the prior 12 months plus 5% of the gross amount of the current offering, to a maximum net worth of the sponsor of one million dollars. In determining net worth for this purpose, promissory notes shall be excluded and evaluation will be made of contingent liabilities to determine the appropriatesness of their inclusion in computation of net worth.

(b) Sponsor must have a favorable tax ruling assuring flow-through of tax benefits to the public investor or a favorable opinion of qualified tax counsel assuring flow-through tax benefits to the public investor.

(c) The sponsor must purchase a minimum of $50,000 in participation interests, net of commissions, in any entity which offers its oil and gas participation interests to the public. From this amount may be deducted 10% of the net equity of the sponsor; or the sponsor has the privilege of investing at least 10% of the amount paid, or to be paid, into the program by the participants.

SDiv 2070 Conflict of Interest. There is presumed to be a material conflict of interest sufficient to render the proposed program incapable of accomplishing its stated objectives in the best interest of the investors when:

(a) Program funds or other assets are made available to the sponsor or any affiliate for any purpose not consistent with the stated purposes of the program, whether with or without adequate consideration therefor;

(b) The program may purchase property acquired by the sponsor or any affiliate within two years next preceding the date of transfer to the program for consideration in excess of the lower of the cost to the sponsor or its affiliate or its present fair market value; or the program may purchase property held longer than two years by the sponsor or an affiliate for consideration in excess of;

(i) cost if the present fair market value of the property is not more than ten percent above or below the cost to the sponsor or affiliate; or

(ii) present fair market value, if, upon appraisal by a qualified

independent appraiser it appears the fair market value is more than ten percent above or below its cost to the sponsor or an affiliate.

For purposes of this section cost to the sponsor or affiliate shall include the sales price of the property paid by the sponsor or affiliate plus any reasonable charges attributable to mineral evaluation, title examination, delay rentals, and any reasonable sales commissions paid by the sponsor or affiliate provided that no such sales commissions, or any profit on the sale inured to the benefit of any affiliate of the program's sponsor on such a sale made within the two year period next preceding the transfer to the program;

(c) The program is obligated to acquire any of its property or services from the sponsor or an affiliate of the sponsor;

(d) The program may acquire services from the sponsor or an affiliate provided the prices are no higher than those normally charged in the same geographical areas by non-affiliated persons or companies dealing at arm's-length. Such persons must be able to demonstrate that they are acting independently and are engaging in a continuing business activity of providing drilling or other material services or supplies to the oil and gas industry. In the alternative, such contracts or arrangements must follow open competitive bidding in which such affiliated persons or companies are the lowest responsible bidders.

(e) The sponsor reserves the right to arbitrarily classify costs as either tangible or intangible, or to arbitrarily place any costs, or activities of the program in any classification which might affect the interests of the participants, unless such classification is made in accordance with generally accepted accounting principles and industry practices, or unless there appears to be sufficient justification for allowing such discretion;

(f) Any contract or other arrangement between the sponsor or an affiliate and the program cannot be terminated upon sixty day written notice without penalty;

(g) Any other self-dealing between the program and the sponsor or any affiliate of the sponsor exists which might in any way benefit the sponsor or affiliate without a corresponding equal benefit to the program. This shall include, but not be limited to, the use of program assets for the purpose of proving-up adjacent properties or properties in the geographical prospect area belonging to sponsors or affiliates.

SDiv 2071 Compensation. (a) No deduction for any purpose other than commitment of the capital to the proposed exploration and development activities, other than specified herein, shall be made from program capital.

(1) **Organization and Offering Expenses** — The sponsor shall be entitled to reimbursement out of program capital for the actual and necessary costs of the organization of the program, and reasonable costs attributable to the offering of the securities. Total deductions from subscription proceeds inclusive of offering expenses, management fees and sales commission cannot exceed 15%.

(2) **Management Fees** — The management fee, whether accruing

to the sponsor or third party operating or management company, shall be reasonable in light of the nature and extent of the services required to be rendered under the program agreement and the nature and scope of the proposed activities. A management fee, which together with sales commissions payable from program capital exceeds 12½% of the program capital is presumed unreasonable.

(3) **Sales Commissions** — A sales charge payable directly out of program capital or by the sponsor which exceeds ten percent of program capital shall be unreasonable.

(b) **Administrative and overhead expenses** — Administrative and overhead expenses shall not exceed 5%, of the gross proceeds of the offering, over the life of the program. Such expenses shall be actual and necessary and shall be paid only when incurred.

(c) Compensation to the sponsor (and its affiliates) of a program is limited as follows:

The participation in program revenues by the sponsor and any affiliate shall be reasonable, taking into account all relevant factors. Sponsors' retained interests may be considered reasonable if they meet one of the standards set forth in paragraphs (1) through (6) below. Any other combinations of fees, overriding royalty interests, and working or net profits interest, which are generally accepted as reasonable in the industry and are justified, in light of the entire offering, may be considered reasonable by the Commissioner:

(1) Unless specifically provided for herein, overriding royalty interests and any other interests free of the burden of operating expenses will be looked upon with disfavor, as will be any form of compensation arrangement in which the sponsor or an affiliate engages in, or proposes to engage in, any activities which are unprofitable to the drilling program.

(2) A 33⅓% working interest or net profits interest in a lease, after payout, if there is no overriding royalty interest reserved by the sponsor.

(3) A 1/16 overriding royalty interest, convertible after payout into not to exceed a 25% working interest or net profits interest in a lease.

(4) A 1/16 overriding royalty interest plus not to exceed a 20% working interest or net profits interest, after payout, in a lease.

(5) Under cost sharing arrangements by which the public investor bears all cost of exploration and the sponsor bears substantially all costs of development, a reversionary interest to the sponsor not in excess of 40% after payout may be deemed to be fair, and application of all revenue from development wells to accomplish payout of cost of development wells in such cases may be held to be reasonable; provided no money interest is charged to investors or to the program for the sponsor's funds committed to the program with respect to drilling costs in computing payouts.

(6) In any other program in which a portion of the program costs are borne by the sponsor, an interest based upon the estimated percentage of drilling block or well costs, including costs of lease acquisition, to be borne by the sponsor, plus any additional interest deemed equitable in

light of the entire offering may be permissible. In no event will the sponsor be allowed more than a 50% interest in program revenues.

In no case may an overriding royalty interest of a sponsor and affiliates exceed 3/32, and royalty payments in any year for any lease may not exceed the net operating profits from the lease.

SDiv 2072 Offers and Agreements to Redeem. (a) The sponsor may not, in the prospectus or otherwise, make any mention of a possible offer to redeem or repurchase the securities issued by the program unless:

(1) under the partnership agreement he has an absolute liability to repurchase or redeem the securities on a specific date, or upon the happening of a specific event, or upon tender for redemption by the purchaser, subject to his financial ability to redeem or repurchase at the time of tender; and

(2) he appears to possess sufficient financial ability at the time of offering to redeem or repurchase 50% of all units to be outstanding; and

(3) sufficient cautionary language is contained in the prospectus respecting the possibility of his continued ability to redeem or repurchase being affected by subsequent events.

(b) The sponsor may not, in the prospectus or otherwise agree to redeem a participant's interest in the program unless:

(1) all the requirements of subdivision (a) of this rule are met; and

(2) the terms of repurchase are specifically described in offering circular including the method of valuation to be used to ascertain the repurchase price and a description of all adjustments which may result in deduction therefrom. Qualified independent petroleum engineers shall be employed to appraise properties for purposes of such valuation, and any valuation by company personnel must be based on such independent appraisals.

SDiv 2073 Periodic Reports. The partnership or joint venture agreement shall provide that the sponsor shall cause to be prepared and distributed to the holders of program interests during each year the following reports:

(a) In the case of a program registered under Section 12(g) of the Securities Exchange Act of 1934, within sixty days after the end of each of the program quarter, a report containing

(1) a current statement of financial condition, which may be unaudited,

(2) an operating statement for the quarter then ended, which may be unaudited, and

(3) a cash flow statement for the quarter then ended, which may be unaudited, and

(4) other pertinent information regarding the program and its activities during the quarter covered by the report;

(b) In the case of all other programs in addition to the annual report required by paragraph (c) hereof, within sixty days after the end of the program's first six-month period, a semi-annual report containing the same information as to the preceding six-month period as that required in quarterly reports under paragraph (a) hereof;

(c) In the case of all programs, within 90 days after the end of each program's fiscal year, all information necessary for the preparation of the participants federal income tax returns;

(d) In the case of all programs, within 120 days after the end of each program's fiscal year, an annual report containing

(1) a statement of financial condition as of the year then ended, an operating statement for the year then ended, a statement of sources and applications of funds and a cash flow statement, all of which shall be audited by independent certified public accountants with an opinion expressed thereon,

(2) a report of the activities of the program during the period covered by the report,

(3) where projections have been provided to the holders of program interests, a table comparing the projections previously provided with the actual results during the period covered by the report. Such report shall set forth distributions to participants for the period covered thereby and shall separately identify distributions from

(4) Cash Flow from operations during the period,

(5) Cash Flow from operations during a prior period which had been held as reserves, and

(6) reserves from the gross proceeds of the offering originally obtained from the participants.

(e) Where assessments have been made during any period covered by any report required by paragraphs (a), (b) and (c) hereof, then such report shall contain a detailed statement of such assessments and the application of the proceeds derived from such assessments; and

(f) Where any sponsor receives fees for services, he shall, within 120 days after the end of each program's fiscal year, send to each participant a detailed statement setting forth the services rendered, or to be rendered by such sponsor and the amount of the fees received.

SDiv 2074 Future Exchanges and Automatic Reinvestment of Revenues. (a) Any future exchanges shall be made solely upon compliance with applicable securities regulations, both federal and state.

(b) Automatic reinvestment of revenues shall be prohibited. Optional reinvestment of revenues must follow complete information to the unit holder of the amount of revenue to which he is entitled as well as a full disclosure of the program into which his revenues will be reinvested at his election. The entity into which reinvestment is made must be registered with the appropriate minimums, as well as other standards, applicable to the entity as in a new program.

SDiv 2075 Purchase of Producing Properties by Drilling Programs.

For drilling programs, purchase of producing properties in excess of ten percent (10%) of the subscriptions to the program shall not be allowed.

SDiv 2076 Liability. Sponsors shall not be indemnified by the participants for acts of negligence or misconduct or for the breach of any fiduciary obligation imposed upon the sponsors by law.

SDiv 2077 Plan of Distribution. (a) **Minimum Unit.** The minimum purchase of a program may not be less than $5,000 and the initial investment by a participant shall be no less than $5,000, all of which must be paid within 12 months from the date the program commences. Assignability of the unit must be limited so that no assignee (transferee) or assignor (transferor) may hold less than a $5,000 interest except by gifts or by operation of law.

(b) **Assessments.**

(1) **Offering Circular** — if the securities for which application for registration is made are subject to additional assessments, the following information concerning such assessments is required:

(aa) The amount of additional assessments to which the securities may be subject, and whether the payment of such assessment will be mandatory or optional;

(bb) The penalizing effect of refusal or inability to make payment of any additional assessments. An optional assessment in which a participant is required to forfeit any interest, except as provided below, or is subjected to any penalty for failure to participate will be deemed to be a mandatory assessment. Any interest charge occasioned by late payment of any mandatory assessment or any unpaid portion of the original subscription price must bear a reasonable relationship to costs incurred by the sponsor or program by virtue of the late payment. Any interest charge which exceeds the maximum rate allowable under Minn. Stat. 1971, Section 334.01 is presumed unreasonable. In the event that a participant fails to contribute his portion of an optional assessment, the only penalty which may be imposed upon him shall be an 80% reduction in the amount of income from the properties developed by the assessments that he would otherwise be entitled to receive after the contributing participants have been returned the amount of their assessments.

(cc) The conditions upon which additional assessments may be made. Additional assessments may be made only for the following:

—completion of wells already initiated

—initiation of wells on leaseholds already owned or under contract

—to acquire and develop leaseholds contiguous to those already owned, the acquisition of which is necessary to fully develop previously discovered reserves.

(2) Management fees payable out of and additional assessments whether optional or mandatory, shall be deducted only when payment of the assessment is made.

(3) **Limitation.** Program interests shall not be subject to mandatory assessments in excess of 50% of the original subscription price.

(4) **Registration Fees** — the Aggregate amount upon which the registration fees are computed shall include the dollar amount for which the securities being registered may be additionally assessed. If the securities for which application is made are subject to unlimited optional assessments the maximum fee must be paid.

(c) **Advertising materials.**

(1) **Contents of Prospectus and Other Sales Literature.**

(aa) **History of Sponsor and Other Programs by Sponsor.** Sponsor's history of operations shall be fully disclosed, and when applicable, sponsor's income from other programs shall be scheduled on a program-by-program basis. Such scheduling shall include total gross income (broken-down to disclose separately management fees, operator's fees, sales commissions, general and administrative overhead expenses reimbursed, and other sources of income) as well as any profits or losses, on an annual basis for the preceding three years, received by the program sponsor or persons or companies affiliated with the sponsor from such programs.

(bb) **Other Sales Literature.** See SDiv. 2065(a)(1).

(2) **Group Meetings.** See SDiv. 2065 (a)(2).

(d) **Commissions.**

(1) Compensation to broker dealers shall be a cash commission. Indeterminate compensation to broker dealers, such as overriding interests and net profit interests, for example, is prohibited. In the absence of a firm underwriting, warrants or options to broker dealers are prohibited.

(2) Compensation to wholesale dealers must be a cash commission, and such commission must be reasonable and fully disclosed.

(3) Sales commissions based on assessment of units are prohibited.

(e) **Suitability of the Participant.** Standards to be Imposed — Given the limited transferability, the relative lack of liquidity, and the specific tax orientation of many oil and gas programs, the sponsor and its selling representatives should be cautious concerning the persons to whom such securities are marketed. Suitability standards for investors will, therefore, be imposed which are reasonable in view of the foregoing and of the type of program to be offered. Sponsors will be required to set forth in the prospectus the investment objectives of the program, a description of the type of person who could benefit from the program and the suitability standards to be applied in marketing it. The suitability standards proposed by the sponsor will be reviewed for fairness by the Commissioner in processing the application. In determining how restrictive the standards must be, special attention will be given to the existence of such factors as high leverage, and uncertain or no cash flow from certain program properties. Programs which involve more than ordinary investor risk should emphasize suitability standards involving substantial net worth of the investor.

SDiv 2078 Application of Proceeds. The prospectus or offering circular shall contain a full and clear disclosure of the use to which the proceeds of the offering will be applied. A full and clear disclosure requires, at a minimum, the following information:

(a) A statement of the minimum amount of capital necessary to activate the program, which minimum amount shall be determined by, and subject to, the following considerations:

(1) The amount designated as the minimum required capitalization or "go-point" should adequately reflect the amount necessary to pursue bona fide exploration activities. The adequacy of the minimum capital requirement shall be determined in light of the nature and scope of proposed activities. A minimum capital requirement which is less than $250,000 shall be prohibited.

(2) All funds received prior to activation of the program must be deposited with an independent custodian, trustee, or escrow agent whose name and address shall be disclosed in the prospectus.

(3) No portion of any funds derived from the sale of these securities shall be expended for any purpose prior to realization of the required minimum capital. In the event the proceeds of the offering do not equal or exceed the amount designated as the go-point, all funds previously collected must be returned in full to the subscribers.

(b) A statement of the proposed application of proceeds of the offering containing at a minimum:

(1) A disclosure of the net amount of proceeds, after front end deductions authorized by SDiv. 2071, which will be available for exploration and development activities, both if the minimum and maximum capitalization is achieved.

(2) A statement of the amount of proceeds, expressed as a percentage, to be applied to all proposed expenditures including, but not limited to: acquisition of leaseholds, exploration and developmental activities, sales commissions, management fees, and the costs of organizing the program and offering these securities.

(c) A statement of the date by which the amount designated as the minimum capital must be subscribed, such date being not later than 120 days after commencement of sales in this state.

SDiv 2079 Rights and Obligations of Participants. (a) **Meetings.** Meetings of the limited partnership may be called by the general partner(s) or the limited partner(s) holding more than 10% of the then outstanding limited partnership interests, for any matters for which the partners may vote as set forth in the limited partnership agreement. A list of the names and addresses of all limited partners shall be maintained as part of the books and records of the limited partnership and shall be mailed on request to any limited partner or his representative. Upon receipt of a written request either in person or by registered mail stating the purpose(s) of the meeting, the general partner shall provide all partners, within ten days after receipt of said request, written notice (either in person or by registered mail) of a meeting and the purpose of such meeting to be held on a date not less than fifteen nor more than

sixty days after receipt of said request, at a time and place convenient to participants.

(b) **Voting Rights of Limited Partners.** The limited partnership agreement shall provide that a majority of the then outstanding limited partnership interests may, without the necessity for concurrence by the general partner, vote to

(1) amend the limited partnership agreement,

(2) dissolve the program,

(3) remove and replace the sponsor(s) and

(4) approve or disapprove the sale of all or substantially all of the assets of the program. **The agreement shall provide for a method of valuation of the general partner's interest upon his removal.**

SDiv 2080 Miscellaneous Provisions. (a) **Fiduciary Duty.** The program's organization documents shall provide that the sponsor shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the program, whether or not in his immediate possession or control, and that he shall not employ, or permit another to employ such funds or assets in any manner except for the exclusive benefit of the program. The sponsor shall be liable for his gross negligence or willful misconduct.

(b) **Financial Information Required on Application.** In any offering of interests, the program shall provide as an exhibit to the application, or where indicated below shall provide as part of the prospectus, the following financial information and financial statements. Such audited statements shall be prepared by an independent certified public accountant with an opinion expressed thereon.

(1) **Cash Flow Statement of Program.** As part of the prospectus, if the program has been formed and owns specified assets, an audited cash flow statement for the program for each of the last three fiscal years of the program (or for life of the program, if less) and unaudited statements for any interim period between the end of the latest fiscal year and the date of the balance sheet furnished, and for the corresponding interim period of the preceding years.

(2) **Balance Sheet of Program.** As part of the prospectus, an audited balance sheet of the program for the most recent fiscal year and an unaudited balance sheet for a period ending not more than ninety days prior to the date of filing.

(3) **Balance Sheet of Sponsor.**

(aa) **Corporate Sponsor.** An audited balance sheet of any corporate sponsors for the same periods and in the same form required for the program itself in Item 2. Such statement shall be included in the prospectus.

(bb) **Other Sponsors.** A statement for each non-corporate sponsor shall be given the Commissioner (including individual partners or individual joint ventures of a sponsor) setting forth the estimated net worth of each such sponsor at a time not more than ninety days prior

to the date of filing an application; such statement shall be signed and sworn to by such sponsors. A representation of the amount of such net worth must be included in the prospectus.

(4) **Profit and Loss Statements for Corporate Sponsors.** Audited profit and loss statements for the last fiscal year of any corporate sponsor (or for the life of the corporate sponsor, if less) and unaudited statements for any interim period ending not more than ninety days prior to the date of filing an application. The inclusion of such statement in the prospectus shall be at the discretion of the Commissioner.

Subchapter 6. **Cattle Feeding Programs.**

SDiv 2081 Definitions. (a) **Pay-out:** That point at which public investors have received a 100 percent return of their investment, before taxes, and without considering any tax deductions.

(b) **Sponsor:** Any corporation, partnership or individual which issues, promotes and/or manages a cattle-feeding venture; for example, a general partner in a limited partnership set up for that purpose. "Sponsor" does not include wholly independent third parties such as attorneys, accountants, investment advisors and underwriters whose only compensation is for professional services rendered in connection with the offering of venture interests.

(c) **Net Assets:** Total assets less total liabilities.

(d) **Affiliate Dealings:** Dealings in which feed is purchased, directly or indirectly, from the sponsor or an affiliate, or cattle are fed in feed lots owned by the sponsor or an affiliate; provided, however, the sale of proprietary feed supplements by an affiliate to independent feeds lots shall not be deemed "affiliate dealings" if such sales are at prices not greater than those in completely unrelated sales.

(e) **Custom Feeding:** Includes the feeding of all cattle other than those fed for publicly offered ventures and those fed for the account of the sponsor and/or any affiliate of the sponsor.

(f) **Hedging:** The sale of futures against a purchase of spots (cattle or other commodities) or the purchase of futures against commitments for spot purchases. Hedging is a medium through which offsetting commitments are employed to eliminate or minimize the impact of an adverse price movement on inventories or other previous commitments.

(g) **Speculation:** Frequent movement in and out of the commodity futures market, holding either long or short positions, or both, without corresponding sales or purchases of commodities on the cash market.

(h) **Basic Feed Cost:** Costs of the ration ingredients, plus the milling charge. This excludes the mark-up charge for yardage and management.

SDiv 2082 The Plan of Business. The form of the business entity (herein sometimes referred to as the "venture") should be structured, insofar as possible, to attempt to limit the liability of public investors to the amounts of their respective investments and attempt to assure the flow-through, insofar as possible, of tax deferral benefits to such public investors. In addition, adequate capitalization and investment (as

specified in SDiv. 2083) must be provided for the venture by the sponsors of the venture.

SDiv 2083 Requirements of Sponsor. (a) **Experience of Management.** At least one principal of the sponsor must have adequate experience in the cattle feeding business, including buying, selling, feeding and maintenance of beef cattle. Such experience must be of at least five years duration, with three of such years in feed lot operations exceeding 1,000 head capacity, and recently preceding the commencement of the publicly financed venture.

(b) **Capitalization of Sponsor and Investment by Sponsor.**

(1) The prospectus shall contain audited financial statements of all sponsors which are corporations or partnerships indicating an ability to perform any commitment which is made in regard to the venture. The prospectus shall contain a representation of the net worth of any individual who is a sponsor.

(2) The corporation or partnership, acting as a sponsor, must have a net worth sufficient to meet the requirements of the Ruling Branch of the Internal Revenue Service. This Rule shall be deemed to be satisfied if the sponsor has received either a favorable tax ruling, or an opinion of qualified tax counsel (acceptable to the Commissioner), assuring flow-through of tax benefits to the public investor. The Commissioner may, in his discretion, require further evidence of net worth sufficient to perform its obligations under the proposed plan of business.

(3) The sponsor must purchase for cash at the public offering price less underwriting discounts and commissions, a minimum of $100,000 in participation interests (which will be treated equally with investments by public investors) in any entity which offers its cattle feeding interest to the public. If the aggregate offering of the entity (less underwriting discounts and commissions) is less than $1,000,000, the sponsor may, in lieu of this requirement, purchase 10% of the offering, less underwriting discounts and commissions. In either case, the sponsor's required investment in participation interests may be reduced by 10% for each $35,000 in tangible net equity possessed by the sponsor. In lieu of the sponsor making the above-described investment (if any is required), such investment may be made by any person or company owning 50% or more of the voting control of the sponsor. In unusual circumstances, the Commissioner may waive this Rule if the sponsor guarantees a favorable cost per pound of weight gain or favorable stop-loss.

SDiv 2084 Compensation to Sponsor and Affiliates. Compensation to the sponsor (and its affiliates) of a venture is to be limited as follows:

(a) All expenses of organizing the venture and selling interests therein to the public, including underwriting discounts and commissions, if any, must be borne solely by the sponsor if the sponsor is to receive up to the full 12½% first year management fee described in Paragraphs 2 and 3 below, but such management fee shall not exceed the **actual** expenses of organizing the venture and selling interests therein to the public. If the publicly-owned venture (limited partnership, etc.) is to pay such expenses, the total of such expenses it shall pay, together with

the first year management fee, shall not exceed 12½% of the gross receipts of the public offering.

(b) **Ventures Which Do Not Engage in Affiliate Dealings.** A maximum of 12½% of the dollar amount of gross cash receipts from a public offering is allowable to the sponsor as a "management fee" for the first year of operation. For each year thereafter, ⅝% per month of the venture's net assets is allowable to the sponsor as a management fee. Following pay-out to public investors, the sponsor may participate in the venture's profits in the following ratio: 25% to the sponsor and 75% to the public investors. The sponsor must pay all its administrative and overhead expenses. Other expenses of the limited partnership, including, but not limited to, buying services, transportation, interest on borrowed funds, legal, accounting and reporting expenses, branding and feed cost, where required to be paid by the venture, shall be billed to and paid directly by the venture to facilitate auditing. Veterinary services and medicines may be allocated, where direct billing is impractical.

(c) **Ventures Which Engage in Affiliate Dealings.** A maximum of 12½% of the dollar amount of gross cash receipts from a public offering is allowable to the sponsor as a management fee for the first year of operation. Reasonable and competitive feed mark-ups on feed sold to the partnership will be allowable. Basic feed costs shall not exceed those charged to other non-affiliated customers of the feed lot for the same types and grades of feed generally prevailing in the locale, at the time of purchase. The mark-up on feed sold to the partnership shall in no event exceed 20% of the basic feed cost. If any "yardage," "per head" or other handling charges of a general nature are to be made, the total of such charges together with the mark-up on feed shall not exceed 20% of the basic feed cost for any feeding cycle. If the sponsor deems it necessary to raise the foregoing limitations as to feed mark-up and handling charges, it may do so only annually and only upon written notice to investors in the venture at least 60 days prior to the "beginning redemption date" mentioned in SDiv. 2088(f) of these rules. Following pay-out to public investors, the sponsor may participate in the venture's profits in the following ratio: 25% to the sponsor and 75% to the public investors. The sponsor must pay all its administrative and overhead expenses. Other expenses of the limited partnership, including, but not limited to, buying services, transportation, interest on borrowed funds, legal, accounting, and reporting expenses, branding and feed cost, where required to be paid by the venture, shall be billed to and paid directly by the venture to facilitate auditing. Veterinary services and medicines may be allocated, where direct billing is impractical.

(d) **Other Fees and Compensation in Ventures which Engage in Affiliate Dealings.** The prospectus must clearly describe all dealings which the venture will have with the sponsor or its affiliates. Such description must contain a detailed disclosure of the fees to be paid to such parties. In addition, the prospectus must contain a schedule setting out, in summary, all fees and compensation to be paid directly to the sponsor as well as indirect fees to be paid to the sponsor or its affiliates.

SDiv 2085 Requirements of the Venture. (a) **Periodic Reports.**

(1) The sponsor shall provide periodically, at least quarterly, each public investor with a report which states the current value of his

interest (on a cost basis or otherwise) and progress of the venture, in clear and concise terms in accordance with practices in general usage in the industry. Annual audited financial reports and tax information shall be furnished to the investor in a form which may be used in the preparation of the investor's individual income tax return.

(2) The information to be provided in such report should comply with SDiv 2088(b) of these rules, and should include any other pertinent information regarding fixed and variable costs.

(b) **Future Exchanges.** Any future exchanges of interests in the venture for common stock or other securities of any other entity shall be made solely upon compliance with this Act and the Rules and Regulations hereunder and must be in compliance with financial and other requirements generally applicable to initial public offerings by such entities. The public investors must be advised, in the prospectus, that any future exchange offers may not be available to them if the exchange offer fails to meet the registration requirements of this state. The sponsor must undertake to continue management, on the same terms, of the interest of investors who do not exchange their interests for interests in the new entity, until orderly liquidation of all cattle in the venture is completed.

(c) **Exculpatory Clause.** The sponsor of a venture shall be deemed to be in a fiduciary relationship to the public investors, and the prospectus shall so state. Sponsors and affiliates shall not be exonerated by any provision of any agreement from liability to investors for any losses caused by gross negligence or willful misconduct.

(d) **Insurance and Death Loss.**

(1) Casualty insurance or full mortality insurance may be maintained on all cattle belonging to the venture, in the discretion of the sponsor, and if in the best judgment of the sponsor the costs of such insurance are economically feasible.

(2) The sponsor, at no additional cost to the venture, must guarantee against death loss above 4% occurring during the term of the venture or upon earlier termination of the management agreement. Such guarantee must include a specified indemnity which will be made at the earlier of termination of the venture or termination of the management agreement. Proof of loss must be produced in order for the sponsor to receive credit toward the 4% (in some manner subject to audit). The sponsor must provide for indemnification for any death loss whatever brought about due to negligence or misconduct on the part of the sponsor and/or its employees. In circumstances where an unusually favorable stop loss provision exists, the Commissioner may waive the requirement of a guarantee against death loss.

(e) **Leverage.** A venture may not engage in leveraging in excess of four to one and a limitation of the leveraging to be used must be set out in the prospectus, along with a clear explanation of the risk involved in leveraging.

(f) **Hedging and Speculation.** If the plan of business of the venture includes the purchase or sale of commodities futures contracts, such purchases and sales must be limited in extent and frequency to those instances deemed reasonably necessary to protect the venture against

price fluctuations in the cattle or grain market. The purchase or sale of commodities futures contracts may be for the purposes of hedging only and such transactions may not be for purposes of speculation. The public investors must be notified, in writing, at the earliest practicable time (at least monthly) of the terms of any commodity futures contract transactions for the ventures.

(g) **Facilities.** Feed lots in which the venture's cattle are to be fed must have a capacity of 5,000 head or more. The sponsor must have reasonable assurance that it will have access to feed lots with combined total capacity of 20,000 head or more for feeding of the venture's cattle prior to the public offering. All such feeds lots must have available the services of a veterinarian and nutritionist and must keep detailed records of all cattle processed, including the venture's cattle, and all services and goods provided for all cattle in the feed lot, and must agree to make all such records available to the venture's auditors and to the sponsor. In geographic areas where feed lots of 5,000-head capacity or more are unusual, the numbers mentioned in this paragraph may be reduced by the Commissioner.

(h) **Branding & Accountability of Property.** Cattle belonging to the venture must be clearly distinguishable, (e.g. branded with the venture's brand) at the earliest practicable time, and not more than 24 hours after placement in the feed lot under normal circumstances.

All cattle, feed and funds belonging to the venture must be strictly accounted for, and identified to the extent practicable, throughout the life of the venture. The cost of feed and services to the venture shall not be in any way artificially increased (other than customary mark-ups mentioned elsewhere herein).

The weighing of all feed and cattle to be sold to the venture and all cattle to be sold by the venture shall be done on sealed certified scales, certified by the governmental authority (if any) having jurisdiction thereof in the particular locality. The weighing of feed ration upon delivery to the venture's cattle shall be done on certified scales when practicable, and otherwise on truck scales which are daily compared for accuracy with certified scales.

SDiv 2086 Conflicts of Interest. (a) The prospectus must fully describe all conflicts of interest between the public investors and the sponsor and its affiliates.

(b) No fees, commissions, or other remuneration of any kind may be received by the sponsor or its affiliates, directly or indirectly, in connection with the venture which are not set out and fully disclosed in the prospectus.

(c) No fee may be charged the venture upon the sale of venture cattle.

(d) (1) The venture's cattle may not be sold to the sponsor or its affiliates, directly or indirectly, except that finished cattle may be sold to an affiliated packer on a dressed carcass basis with payment on the basis of U.S.D.A. quality and yield grades, provided the packer reports to the public investors prices paid for other cattle on the same date and reports the nearest U.S.D.A. Market News Quotations of comparable grade and yield.

(2) The venture's cattle may not be purchased from the sponsor

or its affiliates unless purchased at the lesser of fair market value in the locality or the sponsor's cost (animals plus feed). When an affiliate acts as a commission buyer, he may be paid commissions on the purchase of cattle for the venture at rates not exceeding those customary in the industry, and may take title to the cattle on behalf of the registered ventures during any necessary interim while pen-size lots are being formed.

(e) All transactions between the venture and the sponsor, or an affiliate, shall be represented by a written contract and shall be terminable upon 60 days written notice without penalty.

SDiv 2087 Plan of Distribution and Suitability. (a) **Minimum Investment.** The minimum investment by a public investor shall be $5,000 and the initial investment by a public investor shall be no less than $5,000, all of which must have been paid at the date the venture commences. Assignability of a public investor's interest must be limited so that no assignee (transferee) or assignor (transferor) may hold less than a $5,000 interest, except by gift, inheritance, or Court decree.

(b) Public investors' interests in a cattle feeding venture may not be assessed (the public investors may not be compelled in any way to make additional capital contributions to the venture).

(c) **Advertising Materials.** Sales of the venture interests must be made by and through a prospectus. Supplementary material must be submitted to the Commissioner in advance of use, and its use must either be preceded by or accompanied with an effective prospectus. Informational material may, and should be, distributed on a periodic basis to public investors already in the venture.

(d) **Investor Suitability.**

(1) The broker-dealer, or the sponsor in the case of direct sales, shall take all action reasonably required to assure that venture interests are sold only to purchasers for whom such interests are suitable.

(2) Judgment of suitability of any particular venture interest for an individual investor shall be based on the financial capacity of the purchaser, including the purchaser's net worth and income tax bracket, after as reasonable inquiry into the purchaser's financial condition and other related and relevant factors as may be appropriate.

(3) The broker-dealer or sponsor shall retain all records necessary to substantiate the fact that interests were sold only to purchasers for whom such securities were suitable. The Commissioner shall require broker-dealers or sponsors to obtain from the purchaser a letter justifying the suitability of such investment.

SDiv 2088 Prospectus and its Contents. (a) **Term of the Venture.** The prospectus must clearly state the period of time for which the venture will operate. Such term may not initially exceed ten years in duration. If the sponsor retains the right to extend the period of the venture beyond the initial term, such right of continuance must be disclosed in the prospectus. No venture shall be formed with a contemplated term of less than three years, except in unusual circumstances where a favorable stop loss provision is present.

(b) **History of Operations and Reporting Requirements.** The sponsor's history of operation shall be fully disclosed, and all fees and remunerations, direct and indirect, received by the sponsor or an affiliate in each publicly-owned venture shall be scheduled. The prospectus must contain a schedule setting out, on an annual or other accounting period basis, information for the preceding three-year period or for such shorter period as the sponsor has been engaged in cattle feeding operations. Information for the year preceding the program should be presented in a fashion to show the economic results if cattle were placed on feed at least on a quarterly basis. The information required by this Rule shall include:

(1) Average purchase weight of feeder cattle, by sex.

(2) Average weight into the feed lot, by sex.

(3) Average cost per head.

(4) Buying commissions paid.

(5) Average freight costs into the yard.

(6) Average length of time on feed, by sex.

(7) Average total cost of gain (per pound); specifying basis of computation of weight gain (pay weight to pay weight or in-weight to pay weight).

(8) Average feed cost of gain (per pound); specifying basis of computation of weight gain (pay weight to pay weight or in-weight to pay weight).

(9) Average interest rate on borrowed operating capital.

(10) Other management or selling charges, if any.

(11) Death loss (per cent).

(12) Average sales weight, by sex (after 4% shrink at feed lot).

(13) Average sales price per cwt, by sex.

(14) Average profit or loss per head, by sex (estimated if not known).

(15) Average equity investment per head, by sex (estimated if not known).

(c) For ventures which engage in affiliate dealings, the prospectus must set out the above information, for each feed lot, for the following categories:

(1) Custom feeding, to the extent such information is known.

(2) Cattle fed for the account of the sponsor and/or all affiliates.

The above information shall also be furnished to the public investors in the venture on at least an annual basis.

(d) **Area of Operations.** A general description of the areas in which it is anticipated that the venture's activities will be conducted shall be set out.

(e) **Maximum and Minimum.** The prospectus shall indicate the maximum amount of subscriptions to be sought from the public and the minimum amount of subscriptions necessary to activate the venture. The minimum amount of funds to activate the venture shall be sufficient to accomplish the objectives of the venture, including "spreading the risk" and shall be set out in the prospectus. Any minimum less than $250,000 will be presumed to be inadequate to spread the risk of the public investors. Provision must be made for the return to public investors of 100% of paid subscriptions in the event that the established minimum to activate the venture is not reached. The minimum amount shall be placed in an impoundment account. The impoundment agent shall be named in the prospectus.

(f) **Repurchase of Venture Interests.** No representations shall be made that venture interests are readily marketable. Public investors must be allowed to withdraw from the venture on at least an annual basis, following the first full year of operation of the venture. The beginning redemption date for each year shall be specified in the prospectus, and public investors desiring to withdraw shall give written notice to the sponsor at least 30 days prior to such beginning redemption date. As to all cattle owned by the venture on the beginning redemption date, the withdrawing investor shall have a liquidating interest, and his account will be credited with his pro rata share of the proceeds of sales of all such cattle. As soon as practicable after the liquidation of all such cattle, the withdrawing investor shall be paid his pro rata share of such proceeds. A penalty, not to exceed ten per cent of the proceeds credited to his account, may be charged the investor who chooses to withdraw prior to the end of the venture. No penalty may be charged at the termination date of the venture, nor at any time thereafter if the termination date is extended, nor after the venture has been in existence for five years, whichever time is earlier. The ten percent penalty for early withdrawal must be credited to the venture.

(g) **Tax Considerations.**

(1) The sponsor of the venture must obtain an Internal Revenue Service ruling, or an opinion of qualified tax counsel (acceptable to the Commissioner) stating that the desired income tax treatment will be accorded the venture.

(2) The prospectus must fully disclose all tax benefits and liabilities associated with investment in the venture. It shall be clearly disclosed in the prospectus that the venture is not a tax-shelter.

(h) **Use of Proceeds.** The prospectus must clearly account for the use of the proceeds of the offering. Proposed use should be set out in dollar amounts as well as percentages of the total offering proceeds. Funds to be obtained through leveraging are also subject to these requirements.

(i) The prospectus shall contain, in summary form, a schedule setting forth examples of an investment in a cattle feeding venture. Such schedule must contain three examples:

(1) Showing a loss on investment,

(2) Showing a break-even on investment, and

(3) Showing a profit on investment, commensurate with the loss shown in the first schedule.

SDiv 2089 Rights and Obligations of Participants. (a) **Meetings.** Meetings of the limited partnership may be called by the general partner(s) or the limited partner(s) holding more than 10% of the then outstanding limited partnership interests, for any matters for which the partners may vote as set forth in the limited partnership agreement. A list of the names and addresses of all limited partners shall be maintained as part of the books and records of the limited partnership and shall be mailed on request to any limited partner or his representative. Upon receipt of a written request either in person or by registered mail stating the purpose(s) of the meeting, the general partner shall provide all partners, within ten days after receipt of said request, written notice (either in person or by registered or certified mail) of a meeting and the purpose of such meeting to be held on a date not less than fifteen nor more than sixty days after receipt of said request, at a time and place convenient to participants.

(b) **Voting Rights of Limited Partners.** The limited partnership agreement shall provide that a majority of the then outstanding limited partnership interests may, without the necessity for concurrence by the general partner, vote to

(1) amend the limited partnership agreement,

(2) dissolve the program,

(3) remove and replace the sponsor(s) and

(4) approve or disapprove the sale of all or substantially all of the assets of the program.

(c) This rule shall not apply to programs which are not structured as limited partnerships.

Subchapter 7 Real Estate Investment Trusts

SDiv 2090 Definitions. (a) **Real Estate Investment Trust** (REIT) — an unincorporated trust or association which intends to comply with Sections 856, 857 and 858 of the Internal Revenue Code of 1954, as amended;

(b) **Net Assets** — total assets at cost less total liabilities.

(c) **Net Income** — income as reported on the income statement of the trust, after taxes but before deduction of advisory and servicing fees and expenses, provisions for depreciation and consideration of extraordinary, non-recurring items.

(d) **Operating Expenses** — Operating expenses shall include aggregate expenses of every character paid or incurred by the trust except the following:

(1) interest;

(2) taxes;

(3) legal, audit, accounting, underwriting, brokerage, listing, registration and other fees, printing, engraving and other expenses and taxes incurred in connection with the issuance, distribution, transfer, registration and stock exchange listing of the trust's securities;

(4) cost of preparation and distribution of reports and other communications to shareholders;

(5) expenses, other than expenses of employees of the trust and the investment adviser, connected with the acquisition, disposition and ownership of real estate interests, mortgage loans or other property, including the costs of foreclosure, insurance premiums, legal services, brokerage and sales commissions, maintenance, repair and improvement of property;

(6) expenses connected with payments of dividends or interest or distributions in cash or otherwise made or caused to be made by the trustees to holders of securities of the trust;

(7) additions to reserves for depreciation, depletion and losses.

SDiv 2091 Trustees. (a) A REIT shall have a minimum of three trustees, all of whom are elected annually by a vote of a majority of the outstanding shares of beneficial interest. A majority of the trustees shall not be affiliated with the manager or adviser or any other affiliate, or an affiliate of an affiliate of the trust.

(b) **Liability of the Trustees.** The declaration of trust, or other instrument forming the REIT shall not contain any provision relieving any trustee from liability to the REIT or its securities holders to which it or he might otherwise be subjected by reason of acts constituting bad faith, willful misfeasance, gross negligence or reckless disregard of its or his duties.

(c) **Management of REIT.** The trustees shall have absolute and exclusive control over the management of the REIT and its property and the disposition thereof, provided that the trustees may delegate the administration of the day to day investment operations and administrative functions of the REIT to another person subject to guidelines and policies established by the trustees and set forth in the contract entered into by the REIT and such other person.

(d) **Removal of Trustees.** A trustee of a REIT shall be subject to removal by the vote or written consent of the holders of a majority of the outstanding securities of the trust.

SDiv 2092 Transactions with the Trust. No affiliate, or affiliate of an affiliate of a REIT, shall sell, transfer or lend any assets or property to the trust or purchaser, borrow or otherwise acquire any assets of property from the trust, directly or indirectly, unless the transaction comes within one or more of the following exceptions:

(a) the transaction consists of the acquisition of property or assets at the formation of the trust or shortly thereafter, and is fully disclosed in the prospectus; or

(b) the transaction is a borrowing of money by the trust on terms not

less favorable than those then prevailing for comparable arms-length borrowings; or

(c) the transaction consists of the acquisitions by the trust of federally insured or guaranteed mortgages at prices not exceeding the currently quoted prices at which the Federal National Mortgage Association is purchasing comparable mortgages; or

(d) the transaction consists of the acquisition of other mortgages on terms not less favorable to the trust than similar transactions involving unaffiliated parties; or

(e) the transaction consists of the acquisition by the trust of other property at prices not exceeding the fair value thereof as determined by independent appraisal.

All such transactions and all other transactions in which any such persons have any direct or indirect interest shall be permitted only if

(1) such transaction has been approved by the affirmative vote of a majority of the trustees who are not affiliated with the trust or the adviser, and

(2) if the property is a mortgage, the purchase or acquisition of such mortgage from any such person is on terms not less favorable to the trust than those then prevailing for arms-length transactions in comparable mortgages, and

(3) each such transaction is in all respects on such terms as at the time of the transaction and under the circumstances then prevailing, fair and reasonable to the shareholders of the trust.

SDiv 2093 Commissions. Any commission or other remuneration received by an affiliate, or affiliate of an affiliate, of a REIT in connection with the acquisition or disposal of trust assets shall be included in the advisory fee and subject to the limitations thereon.

SDiv 2094 Advisory or Management Contract. Any advisory contract entered into by the trustees initially may not be for a period longer than three years, and any such contract entered into thereafter shall be for a period not longer than one year. Any such advisory or management contract shall provide that it may be terminated at any time without penalty by the trustees or a majority of the holders of outstanding securities of the trust upon not more than sixty days written notice to the adviser or manager. It shall be approved annually by a majority of the unaffiliated trustees.

SDiv 2095 Fees and Expenses. (a) Total operating expenses of a REIT, including advisory fees and mortgage servicing fees and all other expenses, shall not exceed 1½% of the average net assets of the trust or 25% of net income of the trust, whichever is greater, calculated at least quarterly. In no event shall aggregate annual expenses exceed 1½% of the total invested assets of the trust.

(b) The advisor shall reimburse the trust at least annually for the amount by which operating expenses of the trust exceed the above limitations.

(c) All figures used in the foregoing computations shall be determined in accordance with generally accepted accounting principles applied on a consistent basis. The compensation of the investment adviser shall be computed by an independent certified public accountant at the end of each year and any necessary adjustments made between the compensation so computed and that already paid.

(d) The limitations on selling expenses pursuant to SDiv. 2034 of these rules shall apply to real estate investment trusts.

SDiv 2096 Investment Policy. The investment policies to be followed by the trustees shall be stated with reasonable particularity.

SDiv 2097 Liability of Shareholders. The holders of the shares of beneficial interest shall not be personally liable on account of any obligations of the REIT. All written contracts to which the REIT is a party shall include a provision that the shareholders shall not be personally liable on such obligations. The trustees must be required to maintain adequate insurance against possible liability on the part of the trust.

SDiv 2098 Reports. The trust shall prepare an annual report concerning its operations for each fiscal year ending after the public offering of its securities, including financial statements prepared in accordance with generally accepted accounting principles applied on a consistent basis and certified by independent certified public accountants. The annual report shall be delivered to each public shareholder and debenture holder within 120 days after the end of such fiscal year. A copy of the annual report shall be filed with the Commissioner.

SDiv 2099 Meetings and Inspection of Records. (a) There shall be an annual meeting of shareholders of the trust upon reasonable notice following delivery of the annual report required by SDiv. 2093 above. Special meetings may be called upon written request of **holders of beneficial interests** holding together not less than 20% of the outstanding shares of the REIT entitled to vote at such meeting. The call shall state the nature of the business to be transacted, and no other business shall be considered.

(b) The declaration of trust, or other instrument shall provide for the inspection of the trust records by a holder of beneficial interest or beneficiary of the trust as permitted by local law to the same extent as is permitted corporate shareholders.

SDiv 2100 Distributions. Any distribution to shareholders shall be accompanied by a statement in writing advising the source of the funds so distributed, or if the source thereof has not been determined, the communication shall so state; and in such event the statement as to such source shall be sent to the shareholders not later than 60 days after the close of the fiscal year in which the distribution was made.

SDiv 2101 Amendment of Declaration of Trust. The declaration of trust of a REIT shall provide that no amendment thereto may be made

unless approved by the vote or written consent of the holders of a majority of the voting securities of the trust; and that no amendment which would change any rights with respect to any outstanding securities of the trust, or by diminishing or eliminating any voting rights pertaining thereto, may be made unless also approved by the vote or written consent of the holders of two-thirds (⅔) of the outstanding securities so affected.

SDiv 2102 Termination of the Trust. All real estate investment trusts shall be subject to termination at any time by the vote or written consent of a majority of the persons holding shares of beneficial interest in the trust.

SDiv 2103 Prohibited Activities. The REIT shall not engage in any of the following activities:

(a) invest more than 10% of its total assets in unimproved real property or mortgages on unimproved real property, excluding property being developed or property where development will be completed within a reasonable period;

(b) invest more than 10% of its total assets in junior mortgages, excluding wrap-around type junior mortgage loans;

(c) issue debt securities to the public unless the cash flow of the trust for the last fiscal year excluding extraordinary, non-recurring items, is sufficient to cover the interest on all debt securities to be outstanding;

(d) issue options or warrants to purchase its securities to any affiliate of the trust, or at exercise prices less than the fair market value of such securities on the date of grant;

(e) engage in trading as compared with investment activities;

(f) issue redeemable equity securities or equity securities of more than one class;

(g) invest in commodities;

(h) engage in any short sale;

(i) engage in underwriting or agency distribution of securities issued by others;

(j) knowingly hold securities in any company holding investments or engaging in activities prohibited by this section.

SDiv 2104 Terms and Conditions of Securities. The declaration of trust of a REIT shall not permit the issuance by the trust of:

(a) Securities which are assessable

(b) Redeemable securities

(c) Warrants, options or similar evidences of a right to buy its securities, unless issued to all of its security holders ratably or as part of a financing arrangement.

SDiv 2105 Leverage. The aggregate borrowings of the trust, secured

and unsecured, shall not be unreasonable in relation to the net assets of the trust. The maximum amount of such borrowings in relation to net assets shall be stated in the prospectus. Leveraging in excess of 500% of net assets shall be prohibited.

SDiv 2106 Savings Clause. The provisions of the declaration of trust giving the shareholders the right to elect and remove trustees and the right to amend and terminate the declaration of trust shall be subject to the requirements of the Internal Revenue Code of 1954, as amended, and the rules and regulations promulgated thereunder. If any provisions granting or limiting such shareholder right shall conflict with the requirements of the Internal Revenue Code of 1954 and the rules and regulations promulgated thereunder, such provisions shall be deemed to be without force and effect. In the event that the provision relating to the election of trustees by the beneficiaries of the trust shall be deemed to be without force and effect, the trustees in office shall be deemed to be the qualified and acting trustees until such time as a successor trustee or (trustees) has been named and qualified; provided, however, that on or before the next meeting of the shareholders, after the trustees shall have notified the shareholders that any or all shareholders' rights create such a conflict and, therefore, shall be without force and effect, there shall be submitted to the shareholders for their approval or disapproval, by a majority of those voting, the question whether such shareholder right or rights should be continued.

SDiv 2107 Minimum Net Capital. The net assets of the trust prior to registration, as defined in SDiv. 2090 (b), shall be $200,000, represented by the outstanding securities of the trust.

SDiv 2108 Recording. The declaration of trust and any amendments, or a memorandum of the declaration of trust and any amendments, shall be filed for record in the registry in the county where the principal place of business of the REIT is located or in any other place required by local law.

SDiv 2109 Minimum Capitalization. The minimum capitalization of a REIT excluding the minimum net capital set forth in SDiv. 2107 and after payment of organization and offering expenses shall be $2,000,000.

SDiv 2110. (a) The words "for value" as used in Minnesota Statutes 1975, Section 80A.14(p)(1), (2) and (3) do not include the offer or grant of an option to purchase securities if:

(1) The offer or grant is made to any person by the issuer or a parent or subsidiary of the issuer, and

(2) no monies or other tangible property is given for such option, and

(3) the option, by its terms or by the terms of some supplemental agreement, is non-transferable otherwise than by will or the laws of descent and distribution, and is exercisable, during the lifetime of the grantee, only by him.

(b) Securities issued pursuant to the exercise of an option described

in paragraph (a) hereof must at the time of issuance either be registered or exempted from registration pursuant to an applicable exemption contained in Section 80A.15, Subdivision 1, or Subdivisions 2(a), 2(g) or 2(b).

(c) The words "for value" as used in Minnesota Statutes, 1975, Section 80A.14(p)(1), (2) and (3) do not include the distribution of any securities pursuant to an employee stock ownership trust as defined in Minnesota Statutes, 1974, Section 290.01, Subdivision 25, if the distributee has paid no monies or other tangible property in exchange for the securities or the right to receive the securities.

SDiv 2111. The exemption contained in Section 80A.15, Subdivision 1(f) for a warrant or right to purchase any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, or the Pacific Stock Exchange, shall only apply to a warrant or right issued by the issuer of the securities so listed or approved for listing.

SDiv 2112. "Commercial paper which arises out of a current transaction" for the purpose of Section 80A.15, Subdivision 1(g) means any note or other evidence of indebtedness, which has been issued, or the proceeds of which are to be used, for producing, purchasing, carrying or marketing goods, liquid inventories or other assets easily convertible into cash, or in meeting current operating expenses of a commercial, agricultural, or industrial business, and which is not to be used for permanent or fixed investment, such as land, buildings or machinery, or for speculative transaction or transactions in securities (except direct obligations of the United States government).

SDiv 2113. [Repealed, 1981; number reserved for future use.]

SDiv 2114. Except for regulation of the issuance or guarantee by a public utility of its securities under the Public Utility Holding Company Act of 1935, regulation solely by the United States Securities and Exchange Commission is not "regulation . . . by a government authority of the United States" as that term is used in Section 80A.15, Subdivision 1(i).

SDiv 2115. (a) Up to five sales of securities of an issuer in any twelve consecutive months shall be exempted by Section 80A.15, Subdivision 2(a), provided, that in the case of sales by an issuer except sales of securities registered under the Securities Act of 1933 or exempted by Section 3(b) of that act, the seller reasonably believes that all buyers are purchasing for investment.

(b) For the purpose of computing the number of sales which have been made, or will have been made upon completion of a proposed offering pursuant to Section 80A.15, Subdivision 2(a),

(1) The following sales shall be excluded if made within forty-eight hours of a sale to another purchaser, which other sale is included in such computation:

(aa) The sale to any relative or spouse of a purchaser and any relative of such spouse, who has the same home as such purchaser; and

(bb) The sale to any trust or estate in which a purchaser or any of the

persons related to him as specified in subparagraphs (1)(aa) or (cc) of this rule collectively have 100 percent of the beneficial interest (excluding contingent interest); and

(cc) The sale to any corporation or other organization of which a purchaser or any of the persons related to him as specified in subparagraphs (1)(aa) or (bb) of this rule collectively are the beneficial owners of all the equity securities (excluding directors' qualifying shares) or equity interests; and

(2) There shall be counted as one sale a sale to any corporation, partnership, association, joint stock company, trust or unincorporated organization except that if such entity was organized for the specific purpose of acquiring the securities offered, each beneficial owner of equity interest or equity securities in such entity shall count as a separate sale; and

(3) Sales to clients of an investment adviser, customers of a broker-dealer, or persons with similar relationships shall be considered to be separate sales regardless of the amount of discretion given to the investment adviser, broker-dealer, or other person to act on behalf of the client or customer.

(c) For the purpose of determining the number of sales which have been made, or will have been made upon completion of a proposed distribution under Section 80A.15, Subdivision 2(a), only those sales which would be subject to the registration provisions of Chapter 80A, as determined by Minn. Stat. § 80A.27, shall be included.
[amended, effective 2-21-81]

(d) For purposes of this Rule, time shall be computed pursuant to Minn. Stat. § 645.15 (1978), as amended.
[effective 2-21-81]

SDiv 2116. "Recognized manuals approved by the Commissioner", as that term is used in Section 80A.15, Subdivision 2(b), are limited to the following:

Standard & Poor's Corporation Records

Moody's Industrial Manual and Industrial News Reports

Moody's Bank & Finance Manual and Bank & Finance News Reports

Moody's Transportation Manual and Transportation News Reports

Moody's Public Utility Manual and Public Utility News Reports

Moody's OTC Industrial Manual and OTC Industrial News Reports (provided that the issuer, as of the date of the balance sheet required by Section 80A.15, Subdivision 2(b)(1), had a net worth of at least $250,000 and had at least 200 shareholders).

See AR0229ST for new

SDiv 2117. The terms "financial institution or institutional buyer" contained in Minn. Stat. § 80A.15, Subdivision 2(g) (1978), as amended, include but are not limited to: (1) any corporation with a class of equity securities registered under Section 12(g) of the Securities Exchange Act of 1934, as amended, (2) any single investor who purchases $100,000 or more of an issue with respect to such sale, provided the purchase is for cash and payment is made at the time of the sale, and (3) a Small Business Investment Company.
[amended, effective 2-21-81]

SDiv 2118. (a) For the purpose of computing the number of persons to whom sales have been made, or will have been made upon completion of a proposed offering pursuant to Section 80A.15, Subdivision 2(h),

(1) The following purchasers shall be excluded:

(aa) Any relative or spouse of a purchaser and any relative of such spouse, who has the same home as such purchaser; and

(bb) Any trust or estate in which a purchaser or any of the persons related to him as specified in subparagraphs (1)(aa) or (cc) of this rule collectively have 100 percent of the beneficial interest (excluding contingent interests); and

(cc) Any corporation or other organization of which a purchaser or any of the persons related to him as specified in subparagraphs (1)(aa) or (bb) of this rule collectively are the beneficial owners of all the equity securities (excluding directors' qualifying shares) or equity interests; and

(2) There shall be counted as one purchaser any corporation, partnership, association, joint stock company, trust or unincorporated organization except that if such entity was organized for the specific purpose of acquiring the securities offered each beneficial owner of equity interests or equity securities in such entity shall count as a separate purchaser; and

(3) Clients of an investment adviser, customers of a broker-dealer, or persons with similar relationships shall be considered to be separate purchasers regardless of the amount of discretion given to the investment adviser, broker-dealer, bank trust department or other person to act on behalf of the client, customer or trust.

(b) The limitation of 25 purchasers contained in Section 80A.15, Subdivision 2(h) is waived in connection with any distribution resulting in sales to not more than 35 persons in this state in connection with any offering being made in compliance with Rule 146 promulgated by the Securities and Exchange Commission [17 C.F.R. Section 230.146] or rules promulgated under section 3(b) of the Securities Act of 1933, if such offering is in compliance with any such rules.
[amended, effective 2-21-81]

(c) The exemption contained in Section 80A.15, Subdivision 2(h) is withdrawn for any security representing an interest in or formed for the purpose of investing in any oil and gas venture, or any partnership, joint venture, group or association formed principally for the purpose of exploring for oil and gas or developing oil and gas reserves unless said security is sold in compliance with Rule 146 promulgated by the Securities and Exchange Commission. [17 C.F.R. Section 230.146].
[amended, effective 2-21-81]

(d) The exemption contained in Section 80A.15, Subdivision 2(h) is withdrawn for any security representing an interest in, or formed for the purpose of investing in, any animal breeding, animal feeding, animal leasing or similar venture, unless said security is sold in compliance with Rule 146 promulgated by the Securities and Exchange Commission. [17 C.F.R. Section 230.146].
[amended, effective 2-21-81]

(e) For the purpose of Section 80A.15, Subdivision 2(h), "reasonable and customary commissions" means commissions which do not exceed the

amounts which may permissibly be paid for the sale of particular types of securities in connection with registered offerings, as prescribed in SDiv. 2034.

(f) The exemption contained in Section 80A.15, Subdivision 2(h) is not available for any security which is advertised for sale to the general public in newspapers or other publications of general circulation or otherwise, or by radio, television or other method of mass communication. Mass communication includes a direct mailing **or "seminar"** where the issuer or other person making the offering does not have reasonable grounds to believe that the securities being offered would be a suitable investment for each person to whom such **solicitation** is made, or does not have other justifiable basis for selecting the persons to whom such **solicitation** is made (such as existing security-holders of the issuer).

(g) (1) The exemption contained in Section 80A.15, Subdivision 2(h) is withdrawn for any security sold in a public distribution.

(2) For purposes of this Rule, "public distribution" means an offering registered under the Securities Act of 1933 or exempted by Regulation A of Section 3(b) of that act, provided, however, that a public distribution does not include exchange offers or the exercise of options pursuant to a plan approved, or proposed to be approved by shareholders.
[amended, effective 2-21-81]

(h) The exemption contained in Section 80A.15, Subdivision 2(h) is withdrawn for any security representing an interest in an association whose operations, or proposed plan of operations, would require a broker-dealer's license pursuant to Minnesota Statutes **1974, Section** 80A.04, Subdivision 1, unless the association has been licensed under that section for a period not less than two consecutive years.

(i) The requirement of Clause (1) of Section 80A.15, Subdivision 2(h) is hereby waived in connection with offers to exchange securities of the issuer or another issuer made to existing security holders.

(j) The requirement of Minn. Stat. § 80A.15, Subdivision 2(h)(1) is hereby waived in connection with any distribution of securities pursuant to any employee's savings, stock purchase, pension, profit sharing or similar benefit plan, or self employed person's retirement plan.
[effective 2-21-81]

(k) For the purposes of this Rule, time shall be computed pursuant to Minn. Stat. § 645.15 (1978), as amended.
[effective 2-21-81]

SDiv 2119. Offers, but not sales for which a registration statement has been filed under Minn. Stat. Ch. 80A, are hereby exempted from registration pursuant to Minn. Stat. § 80A.15, Subdivision 2(i) (1978), as amended, provided, however, that any such written offer may be made only by, or only if accompanied by, the most recent preliminary or the final prospectus on file with the Commissioner.
[amended, effective 2-21-81]

SDiv 2120. The words "consolidation or merger" as used in Section 80A.15, Subdivision 2(1) shall mean a statutory consolidation or a statutory merger as defined by the laws of the governing state or other entity. A reorganization described in Section 368 (a)(1)(B) of the Internal Revenue Code of 1954, as amended, is not ordinarily a "consolidation or merger".

SDiv 2121. An option to purchase securities which has been granted without registration or pursuant to an applicable exemption in reliance upon SDiv. 2110 is not an "outstanding convertible security" as that term is used in Section 80A.15, Subdivision 2(n). Securities issued pursuant to the exercise of such option must at the time of issuance be either registered or exempted by Section 80A.15, Subdivision 1, or Subdivisions 2(a), 2(g) or 2(h).

SDiv 2122. (a) Any offer or sale by an affiliate of the issuer thereof is hereby exempted from registration pursuant to Minn. Stat. § 80A.15, Subdivision 2(o) (1978), as amended, if the following conditions are met prior to any such offer or sale:

(1) if the sale is subject to Rule 144 of the Securities and Exchange Commission:

(aa) a registration statement is in effect with respect to securities of the same class of such issuer and

(bb) the sale is made pursuant to Rule 144 promulgated by the Securities and Exchange Commission and

(cc) all annual or other reports required by Minn. Stat. § 80A.12 (1978), as amended, or any rule thereunder have been filed or distributed during the twelve months preceding such sale (or for such shorter period for which the issuer was required to file such reports), or

(2) if the sale is not subject to Rule 144:

(aa) a registration statement is in effect with respect to securities of the same class of such issuer and

(bb) a statement of the facts called for by Form 144 has been furnished to the Commissioner concurrent with the placing with a broker-dealer of an order to execute a sale (if a broker-dealer is used) or at the time of the offer (if a broker-dealer is not used) and

(cc) all annual or other reports required by Section 80A.12 or any rule thereunder have been filed or distributed during the twelve months preceding such sale (or for such shorter period for which the issuer was required to file such reports).
[amended, effective 2-21-81]

SDiv 2123. Advertising Material. (a) Definition. "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, or similar communications media, including film strips or motion pictures, published in connection with the offer or sale of a security.

(b) Certain advertisements to be filed. All sales and advertising literature and promotional material including that material required to be preserved pursuant to SDiv 2015(d)(1), other than that exempted by this rule, shall be governed by the following:

(1) Any such material shall, upon the written request of the Commissioner, be filed with the Commissioner prior to being disseminated.

(2) If not disallowed by the Commissioner by written notice or other-

wise within three business days from the date filed, the literature or material may be disseminated.

(3) No formal approval of the literature or material shall be issued by the Commissioner.

(4) The disseminator of the literature or material shall be responsible for the accuracy and reliability of the literature and material, and its compliance with the Act and this rule.
[amended, effective 2-21-81]

(c) Specific Prohibitions. The following devices or sales presentations, and the use thereof, will be deemed deceptive or misleading practices:

(1) Comparison charts or graphs showing a distorted, unfair or unrealistic relationship between the issuer's past performance, progress or success and that of another company, business, industry or investment media;

(2) Lay-out, format, size, kind and color of type used so as to attract attention to favorable or incomplete portions of the advertising matter, or to minimize less favorable, modified or modifying portions necessary to make the entire advertisement a fair and truthful representation;

(3) Statements or representations, which by themselves predict future profit, success, appreciation, performance or otherwise relate to the merit or potential of the securities which are positive or imperative in form; such statement or representations should clearly indicate that they represent solely the opinion of the publisher thereof.

(4) Generalizations, generalized conclusions, opinions, representations and general statements based upon a particular set of facts and circumstances unless those facts and circumstances are stated and modified or explained by such additional facts or circumstances as are necessary to make the entire advertisement a full, fair, and truthful representation.

(5) Sales kits or film clips, displays or exposures, which, alone or by sequence and progressive compilation, tend to present an accumulative or composite picture or impression of certain, or exaggerated potential, profit, safety, return or assured or extraordinary investment opportunity or similar benefit to the prospective purchaser.

(6) Distribution of any non factual or inaccurate date or material by words, pictures, charts, graphs, or otherwise, based on conjectural, unfounded, extravagant, or flamboyant claims, assertions, predictions or excessive optimism.

(7) Any package or bonus deal, prize, gift, gimmick or similar inducement, combined with or dependent upon the sale of some other product, contract or service, unless such unit or combination has been fully disclosed and specifically described and identified in the application as the security being offered.

(d) Exceptions. The following forms and types of advertising are permitted without the necessity for filing or prior authorization by the Commissioner, unless specifically prohibited.

(1) So-called "tombstone" advertising, containing no more than the following information:

(aa) Name and address of issuer.

(bb) Identity or title of security.

(cc) Per unit offering price, number of shares and amount of offering.

(dd) Brief, general description of business.

(ee) Name and address of underwriter, or address where offering circular or prospectus can be obtained.

(ff) Date of issuance.

(2) Dividend notices, proxy statements and reports to shareholders, including investment company quarterly and semi-annual reports.

(3) Sales literature, advertising or market letters prepared in conformity with the applicable regulations, in compliance with the filing requirements of and approved by, the SEC. the NASD, or securities exchanges enumerated in Minn. Statutes, Section 15, Subdivision 1(f).

(4) Factual or informative letters, bulletins or releases, similar to "news letters", relating to issuer's progress or activities, status of the offering or current financial condition, provided however, that during the course of a public offering, this exemption shall not be available to an issuer.

(5) Advertising or sales literature used in connection with a security or transaction exempted by Section 80A.15, and which meets all of the Rules promulgated pursuant to the applicable exemptive paragraph of Section 80A.15.

(e) Violations. Any person, including any broker-dealer or agent thereof, investment adviser or issuer who knowingly prepares, distributes or causes to be issued or published any sales literature which is knowingly inaccurate, false, misleading or tending to mislead in any material respect or otherwise in violation of the provisions herein may be held responsible and accountable therefor in any administrative or civil proceeding arising under the act or these rules.
[amended, effective 2-21-81]

SDiv 2124. Every registration statement and prospectus for a security which is registered as required under chapter 80A, and is exempt from registration by section 3(a)(11) of the Securities Act of 1933 as amended shall bear, on the front page of each registration statement or prospectus, the following language in capital letters and boldface type:

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE MINNESOTA SECURITIES AND REAL ESTATE DIVISION NOR HAS THE DIVISION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.
[amended, effective 2-21-81]

SDiv 2125. (a) Every broker-dealer and agent shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of his business.

(b) (1) In recommending to a customer the purchase, sale or exchange of

any security, a broker-dealer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts disclosed by such customer as to his financial situation and needs.
[amended, effective 2-21-81]

(2) A broker-dealer may not recommend speculative low-priced securities to customers without knowledge or an attempt to obtain information concerning the customers' other securities holdings, their financial situation and other necessary data.

(c) (1) Every broker-dealer shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of each agent to assure compliance with applicable securities laws and regulations.

(2) Final responsibility for proper supervision shall rest with the broker-dealer. The broker-dealer shall designate a partner, officer or manager in each office of supervisory jurisdiction, including the main office, to carry out the written supervisory procedures.

(3) Every broker-dealer shall be responsible for keeping and preserving appropriate records for carrying out the broker-dealer's supervisory procedures. Every broker-dealer shall review and endorse in writing, on an internal record, all transactions and all correspondence of its agents pertaining to the solicitation or execution of any securities transaction.

(4) Every broker-dealer shall review the activities of each office, which shall include the periodic examination of customer accounts to detect and prevent irregularities or abuses and at least an annual inspection of each office of supervisory jurisdiction.

(5) Every broker-dealer shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications and experience of any person prior to licensing as an agent for that broker-dealer.

(6) "Office of supervisory jurisdiction" means any office designated as directly responsible for the review of the activities of agents in such office and/or in other offices of the broker-dealer.

(d) (1) No broker-dealer, investment adviser, agent or employee of any of the above shall effect with or for any customer's account any transactions of purchase or sale which are excessive in size, amount or frequency in view of the financial resources and character of such account.
[amended, effective 2-21-81]

(2) No broker-dealer or agent shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the broker-dealer, as evidenced in writing by the broker-dealer or the partner, officer or manager, duly designated by the broker-dealer.

(3) The broker-dealer or the person duly designated shall approve promptly in writing each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources and character of the account.

(4) This Subdivision shall not apply to discretion as to the price at

which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed.

(e) If a broker-dealer buys for his own account from his customer, or sells for his own account to his customer, he shall buy or sell at a price which is fair, taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense involved, and the fact that he is entitled to a profit.
[effective 2-21-81]

SDiv 2126. Any rescission offer described in Minn. Stat. § 80A.23, Subdivision 8 (1978), as amended, shall normally be accompanied by a document meeting the requirements of a prospectus for a registration by qualification. Said document shall, in addition, clearly disclose any material facts concerning the alternatives available to the offeree.
[effective 2-21-81]

SDiv 2130. No broker-dealer or agent participating in any distribution of securities, other than a firm commitment distribution of securities, shall accept any part of the sale price of any security being distributed unless:

(a) the money or other consideration received is promptly transmitted to the persons entitled thereto; or

(b) if the distribution is being made on an "all-or-none" basis, or on any other basis which contemplates that payment is not to be made to the person on whose behalf the distribution is being made until some further event or contingency occurs,

(i) the money or other consideration received is promptly deposited in a separate bank account, as agent or trustee for the persons who have the beneficial interest therein, until the appropriate event or contingency has occurred, and then the funds are promptly transmitted or returned to the persons entitled thereto, or

(ii) all such funds are promptly transmitted to a bank which has agreed in writing to hold all such funds in escrow for the persons who have the beneficial interests therein and to transmit or return such funds directly to the persons entitled thereto when the appropriate event or contingency has occurred.

(c) For the purpose of this Rule, "promptly" shall mean not later than two business days following receipt.

SDiv 2131. (a) No broker-dealer shall offer or sell any security to, or to attempt to induce the purchase of any security by, any person, in connection with which such broker-dealer, directly or indirectly, offers to extend any credit to or to arrange any loan for such person, or extends any credit to or participates in arranging any loan for such person, unless such broker-dealer, before any purchase, loan or other related element of the transaction is entered into:

(1) delivers to such person a written statement setting forth the exact nature of

(aa) such person's obligations under the particular loan arrangement,

including, among other things, the specific charges which such person will incur under such loan in each period during which the loan may continue or be extended,

(bb) the risks and disadvantages which such person will incur in the entire transaction, including the loan arrangement, and

(cc) all commissions, discounts and other remuneration received and to be received, in connection with the entire transaction including the loan arrangement, by the broker-dealer, by any person controlling, controlled by, or under common control with the broker-dealer, and by any other person participating in the transaction; and

(2) obtains from such person information concerning his financial situation and needs, reasonably determines that the entire transaction, including the loan arrangement, is suitable for such person, and delivers to such person a written statement setting forth the basis upon which the broker-dealer made such determination.

(b) This rule shall not apply to any credit extended or any loan arranged by any broker-dealer subject to the provisions of Regulation T (issued by the Board of Governors of the Federal Reserve System) if such credit is extended or such loan is arranged, in compliance with the requirements of such regulation, only for the purpose of purchasing or carrying the security offered or sold.

SDiv 2132. (a) All financial statements required by these rules or by any official form of the Commissioner shall be prepared in accordance with generally accepted accounting principles unless otherwise permitted by order. Financial statements shall be audited by independent certified public accountants who shall express an opinion thereon, except where the particular form or these Rules permits the use of unaudited statements for interim periods or generally. Any financial statements prepared in accordance with the rules and requirements of the Securities and Exchange Commission shall satisfy the requirements of this Section, provided, however, that the statements are audited by an independent certified public accountant who expresses an opinion thereon.

(b) Whenever in these rules financial statements of an issuer or other person are required by a particular rule or form without further description, such requirement refers to a balance sheet as of a date within 90 days prior to the date of the application, and profit and loss statements for each of the three fiscal years preceding the date of the balance sheet and for the period, if any, between the close of the last of such fiscal years and the date of the balance sheet. The balance sheet as of a date within 90 days prior to the date of the application need not be audited. However, if the balance sheet is not audited and the application is for a registration, there shall be filed in addition an audited balance sheet as of the end of the person's last fiscal year unless such last fiscal year ended within 90 days of the date of the application in which case there shall be filed an audited balance sheet as of the end of the person's next preceding fiscal year. The income statements and statement of changes in financial position shall be audited up to the date of the last audited balance sheet filed, if any.

(c) If amendments or other delays cause the above-described financial

statements to become more than four (4) months old as of the effective date of the registration statement, then updated financial statements as of a date within four (4) months of the effective date shall be filed if the company has no established record of earnings or is currently showing losses or a weak financial condition. If the company has an established record of earnings and is in sound financial condition, a paragraph containing later information as to sales, net income and financial condition may be added in lieu of updating the financial statements, in the discretion of the Commissioner. However, in no case shall the financial statements be more than six (6) months old as of the effective date of the registration statement. If a delay carries beyond the end of the fiscal year, and by applying due diligence the registrant and accountant can have the audit completed prior to the effective date, certified statements should be filed as of the end of the fiscal year.

SDiv 2133. (a) The auditors' report required herein shall comply with the following requirements:

(1) The report shall be dated, manually signed, and shall identify the financial statements covered by the report.

(2) The report shall state whether the audit was made in accordance with generally accepted auditing standards and shall disclose any auditing procedures generally recognized as normal or deemed necessary under the circumstances of the particular case, which have been omitted, and the reasons for such omission.

(3) The report shall state clearly

(aa) the opinion of the accountant with respect to the financial statements covered by the report and the accounting principles and practices reflected therein;

(bb) the opinion of the accountant as to any changes in accounting principles or practices or method of applying the accounting principles or practices which have a material effect on the financial statements, or material adjustments of the accounts;

(4) Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated and, to the extent practicable, the effect of each such exception on the related financial statements given.

(b) (1) All registration statements filed with the Commissioner shall include a manually signed and dated consent of the accountant to the use of his name and his report in the prospectus and registration statement, unless such consent has been filed with the Securities and Exchange Commission.

(2) If an independent accountant has been engaged as the principal accountant to audit the registrant's financial statements who was not the principal accountant for the registrant's most recently filed certified financial statement, the registrant shall furnish the Commissioner with a statement of the date when such independent accountant was engaged and whether, in the eighteen months preceding such engagements, there were any disagreements with the former principal accountant on any manner of accounting principles or practices, financial statement disclosure or auditing procedure, which dis-

agreements if not resolved to the satisfaction of the former accountant would have caused him to make reference in connection with his opinion to the subject matter of the disagreement. The registrant shall also request the former accountant to furnish the registrant with a letter stating whether he agrees with the statements contained in the letter of the registrant, and, if not, stating the respects in which he does not agree; and the registrant shall furnish such letter to the Commissioner together with its own.

SDiv 2134. Notwithstanding any of the provisions of Minn. Reg. SDiv. 2132 or 2133, the Commissioner may by order or otherwise, waive such provisions as he considers to be appropriate under the circumstances of a particular case.

SDiv 2135 Incorporation by Reference. Whenever a reference is made in SDiv 2000 to 4 MCAR § 2151 to a federal or state statute, rule, decision or opinion, such reference shall be deemed to refer to the version of the statute, rule, decision or opinion as of December 1, 1980.
[amended, effective 2-21-81]

SDiv 2136 Effective Date. These rules shall be effective upon their filing with the Secretary of State, except that SDiv. 2024 shall not take effect until September 1, 1975.

SDiv 2137. SDiv. 1-1102 are hereby repealed.

SDiv 2138. Upon application for any registration the applicant shall be required to inform the Commissioner of Securities and Real Estate that he has complied with requirements set forth in Minn. Stat. Ch. 345 relating to unclaimed property.
[1978]

(Filed May 21, 1975)

4 MCAR § 1.2127 Amendments "requiring an order of the Commissioner", pursuant to Minn. Stat. § 80A.28, subd. 3, (1978), as amended, shall mean any change in the language of the currently effective "order" of registration or licensing, including, by way of example:

A. A change in the name of the registrant, whether an issuer, broker-dealer or investment adviser;

B. A change in price, if equity securities are involved;

C. A change in interest rate, if debt securities are involved;

D. A change in type or class of security registered.
[effective 2-21-81]

Subchapter 8: Commodity Pool Guidelines (4 MCAR §§ 1.2140 to 1.2146)
[effective 2-21-81]

4 MCAR § 1.2140 Definitions. As used in these rules, the following terms shall mean:

A. Commissioner. The commissioner of securities and real estate.

B. Adviser. A person who for any consideration engages in the business of advising others, either directly or indirectly, as to the value, purchase, or sale of commodity futures contracts or commodity options.

C. Capital contributions. The total investment in a program by a participant or by all participants, as the case may be.

D. Clearing broker. Any person who engages in the business of effecting transactions in commodities futures contracts for the account of others or for his own account.

E. Commodity futures contract. A contract providing for the delivery or receipt at a future date of a specified amount and grade of a traded commodity at a specified price and delivery point.

F. Net assets. The total assets, less total liabilities, of the program determined on the basis of generally accepted accounting principles. Net assets shall include any unrealized profits or losses on open positions, and any other credit or debit accruing to the program but unpaid or not received by the program.

G. Net asset value per unit. The net assets divided by the number of units outstanding.

H. Net profits. The sum of:

1. The net of any profits and losses realized on all trades closed out during the period,

2. The net of any unrealized profits and losses on open positions as of the end of the period, minus,

3. The net of any unrealized profits or losses on open positions as of the end of the preceding period;

4. All expenses incurred or accrued during the period and

5. Cumulative net realized losses, if any, carried forward from preceding periods.

I. Organization and offering expenses. All expenses incurred by the program in connection with and in preparing a program for registration and subsequently offering and distributing it to the public, including, but not limited to, total underwriting and brokerage discounts and commissions (including fees of the underwriter's attorneys), expenses for printing, engraving and mailing, salaries of employees while engaged in sales activity, charges of transfer agents, registrars, trustees, escrow holders, depositories and experts; and expenses of qualification of the sale of securities under federal and state law, including taxes and fees and accountants' and attorneys' fees.

J. Participant. The holder of a program interest.

K. Person. A natural person, partnership, corporation, association or other legal entity.

L. Program. The limited partnership, joint venture or incorporated organization formed and operated for the purpose of investing in commodity futures contracts.

M. Program interest. A limited partnership or other form of ownership in a program.

N. Pyramiding. A method of using all or a part of an unrealized profit in a commodity futures contract position to provide margin for additional commodity futures contracts of the same or related commodities.

O. Sponsor. Any person directly or indirectly instrumental in organizing a program or any person who will be responsible for the management of a program. Sponsor shall include an adviser or a clearing broker who pays any portion of the organizational expenses of the program, a general partner, and any other person who regularly performs or selects the persons who perform services for the program. Sponsor does not include wholly independent third parties such as attorneys, accountants, and underwriters whose only compensation is for professional services rendered in connection with the offering of the units. The term "sponsor" shall be deemed to include affiliates of any sponsor otherwise coming within this definition.

P. Valuation date. The date as of which the net assets of the fund are determined.

R. Valuation period. A regular period of time between valuation dates.

4 MCAR § 1.2141 Requirements of sponsors, advisers, and clearing brokers.

A. Experience. Any person providing management, advisory, or clearing services to the program shall have at least three years of relevant experience in the area of trading commodity futures contracts. Such experience must include the trading of commodity futures contracts for others or must otherwise demonstrate sufficient knowledge of such person to perform the services proposed and to carry out the program policies and objectives.

B. Financial condition. The financial condition of a sponsor must be commensurate with any financial obligations assumed in the offering and in the management and operation of the program. At a minimum, the net worth shall be the greater of:

1. An amount equal to 5 percent of the participants' capital in all existing programs in which a sponsor or an affiliate has potential liability, plus 5 percent of the total subscriptions in the program being offered, or

2. Fifteen percent of the gross amount of the current offering with respect to offerings of less than $2,500,000. If the offering exceeds $2,500,000, the net worth must be at least 10 percent of the gross amount of the offering, up to $1 million of net worth, but in no case less than $50,000. Net worth of individual sponsors shall be determined exclusive of home, furnishings and automobiles. Audited balance sheets of sponsors shall be furnished except that in the event a sponsor is an individual, an unaudited balance sheet prepared by a certified public accountant and signed and sworn to by such individual sponsor may be accepted for the purpose of determining required net worth. Also, evaluation will be made of contingent liabilities to determine the appropriateness of their inclusion in the computation of net worth.

C. Investment in the program. A sponsor must make a permanent investment in the program equal to the lesser of 3 percent of the public investors' interest or $50,000.

D. Tax ruling or opinion. A program organized in the form of a limited partnership must obtain a favorable tax ruling from the Internal Revenue Service or favorable opinion of qualified tax counsel in a form acceptable to the commissioner concerning the tax status as a limited partnership. A favorable tax ruling or opinion is one which concludes that the program will be treated as a partnership for tax purposes.

E. Liability and indemnification. The sponsor(s) shall not attempt to pass on to participants the liability imposed upon a sponsor by law except that the program agreement may provide for indemnification of the sponsor(s) under the following circumstances and in the manner and to the extent indicated:

1. In any threatened, pending or completed action, suit, or proceeding to which a sponsor was or is a party or is threatened to be made a party by

reason of the fact that he is or was a sponsor of the program (other than an action by or in the right of the program), the program may indemnify such sponsor against expenses, including attorneys' fees, judgments and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if the sponsor acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the program, and provided that his conduct does not constitute gross negligence, wilful or wanton misconduct, or a breach of his fiduciary obligations to the participants. The termination of any action, suit or proceeding by judgment, order or settlement shall not, of itself, create a presumption that the sponsor did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the program;

2. In any threatened, pending or completed action or suit by or in the right of the program, to which a sponsor was or is a party or is threatened to be made a party, involving an alleged cause of action by a participant or participants for damages arising from the activities of a sponsor in the performance of management of the internal affairs of the program as prescribed by the program agreement or by the law of the state of organization, or both, the program may indemnify such sponsor against expenses, including attorneys' fees, actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the program as specified in this clause, except that no indemnification shall be made in respect of any claim, issue or matter as to which the sponsor shall have been adjudged to be liable for negligence, misconduct, or breach of fiduciary obligation in the performance of his duty to the program as specified in this clause, unless and only to the extent that the court in which such action or suit was brought shall determine upon application, that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper;

3. To the extent that a sponsor has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in E.1. or E.2., or in defense of any claim, issue or matter therein, the program shall indemnify him against the expenses, including attorneys' fees, actually and reasonably incurred by him in connection therewith; and

4. Any indemnification under E.1. or E.2., unless ordered by a court, shall be made by the program only as authorized in the specific case and only upon a determination by independent legal counsel in a written opinion that indemnification of the sponsor is proper in the circumstances because he has met the applicable standard of conduct set forth in E.1. and E.2.

F. Additional requirements. Any sponsor, adviser, or clearing broker must present evidence that it is or will be in compliance with applicable licensing or registration requirements under the Commodity Exchange Act, as amended.

4 MCAR § 1.2142 Standards.

A. Disclosures. In view of the limited transferability, the relative lack of liquidity, and the high risk of loss of many commodity pool programs, suitability standards related to the risks to be undertaken will be required for the participants, and must be set forth in both the prospectus and a written instrument to be executed by each participant. The prospectus shall set forth the investment objectives of the program, a description of the type of participant who could benefit from the program and the suitability standards to be applied in marketing the program.

B. Sales to appropriate persons. A sponsor and each person selling program interests on behalf of the sponsor shall make every reasonable effort to assure that those persons being offered or sold the interests meet the suitability standards set forth in this section. The following shall be evidence thereof:

1. That the participant has the capacity of understanding the fundamental aspects of the program, which capacity may be evidenced by the following:

a. The nature of employment experience;

b. The education level achieved;

c. Access to advice from qualified sources, such as an attorney, accountant or tax adviser; and

d. Prior experience with investments of a similar nature;

2. That the participant has an apparent understanding:

a. Of the fundamental risks and possible financial hazards of the investment;

b. Of the lack of liquidity of the investment;

c. That the investment will be directed and managed by the sponsor; and

d. Of the tax consequences of the investment;

3. That the participant can bear the financial risks involved.

C. Maintenance of suitability records. A sponsor shall retain for at least three years all records necessary to substantiate the facts that program interests were sold only to participants for whom such securities were suitable.

D. Minimum investment. The minimum subscription shall not be less than $2,500 and shall be paid in cash at the time of purchase. Assessments of any kind shall be prohibited.

4 MCAR § 1.2143 Fees, compensation and expenses.

A. Organizational and offering expenses. All organizational and offering expenses, including commissions, incurred in order to sell program interests shall be reasonable. In no event shall these expenses exceed 15 percent of the gross proceeds of the offering.

B. Compensation.

1. Maximum expenses. The aggregate annual expenses of every character paid or incurred by a program, including management and advisory fees based on the net assets of the program but excluding commodity brokerage commissions, incentive fees, legal, audit and extraordinary expenses, calculated at least quarterly on a basis consistently applied, shall be reasonable but in no event shall exceed one-half of 1 percent of the program's net assets per month; provided a sponsor shall not receive a management fee if he receives any portion of the brokerage commissions under B.3.

The sponsor(s) shall reimburse the program quarterly for the amount by which such aggregate monthly expenses exceed the amounts herein provided, up to an amount not exceeding its management and advisory fees for the period for which reimbursement is made, prior to publication of the program's quarterly report and shall promptly notify the commissioner if the aggregate expense limitation is exceeded by reason of any extraordinary expenses.

2. Incentive fees. A sponsor or adviser will be entitled to an incentive fee. The total of the incentive fee shall not exceed 15 percent of the net profits of the program, calculated not more often than quarterly on the valuation date, over the highest previous valuation date. For purposes of this calculation, program losses shall be carried forward but shall not be carried back.

3. Brokerage commissions. The program shall seek the best price and services available in its commodity futures brokerage transactions. The program shall not effect any transactions in commodities futures contracts with any clearing broker affiliated directly or indirectly with a sponsor or with any adviser providing the sponsor with research information, recommendations, or other services which might be of value to any sponsor, unless such transactions are effected at competitive brokerage rates. In no event will the program be allowed to enter into any exclusive brokerage contract. If any person receives any portion of the brokerage commissions from program operations, the adviser may not be affiliated with such person.

4. Other income. Any interest or other income earned by any portion of the program assets shall accrue solely to the benefit of the program or the management fee shall be reduced by any amount which does not so accrue.

5. Expenses of the program. All expenses of the program shall be billed directly to and paid by the program. Reimbursements (other than for organ-

izational and offering expenses) to any person or affiliate shall not be allowed, except for reimbursement of the actual direct costs to the sponsor or affiliate of legal and audit services used for or by the program. Expenses incurred in connection with administration of the program, including but not limited to salaries, rent, travel expenses and such other items generally falling under the category of overhead, shall not be charged to the program.

4 MCAR § 1.2144 Rights and obligations of participants.

A. Meetings. Meetings of the participants may be called by a sponsor or by participants holding more than 10 percent of the then outstanding units for any matters for which the participants may vote as set forth in a program agreement. Such call for a meeting shall be deemed to have been made upon receipt by a sponsor of a written request from holders of the requisite percentage of units stating the purpose of the meeting. The sponsor shall deposit in the United States Mails within 15 days after receipt of said request, written notice to all participants of the meeting and the purpose of such meeting, which shall be held on a date not less than 30 nor more than 60 days after the date of mailing of said notice at a reasonable time and place.

B. Voting rights of participants. The program agreement must provide that holders of a majority of the then outstanding units may, without the necessity for concurrence by the sponsor(s), vote to:

1. Amend the program agreement,

2. Dissolve the program,

3. Remove a general partner and elect a new general partner,

4. Elect a new general partner if a general partner elects to withdraw from the program, and

5. Cancel any contract for services with any sponsor or an affiliate without penalty upon 60 days written notice. A general partner shall not withdraw from a partnership without 90 days prior written notice thereof to the participants.

C. Access to program records.

1. The program agreement shall require the maintenance of a list of the names and addresses and interests owned of all participants at the principal office of the program. Such list shall be made available for the review of any participant or his representative at reasonable times, and upon request, either in person or by mail. A participant or his representative shall be furnished a copy of such list upon payment of the cost of reproduction and mailing.

2. The participants and their representatives shall be permitted access to all records of the program, after adequate notice, at any reasonable time. Records shall be maintained and preserved for a period of not less than six years.

D. Annual and periodic reports.

1. The program agreement shall provide for the transmittal to each participant of an annual report, within 120 days after the close of the fiscal year, containing at least the following information:

a. A balance sheet as of the end of its fiscal year and statements of income, participants' equity, and changes in financial position for the year then ended, all of which shall be prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report containing an opinion (without material qualification) of an independent certified public accountant or independent public accountant.

b. A statement showing the total fees, compensation, brokerage commissions and expenses paid by the program, segregated as to type, and stated both in aggregate dollar terms and as a percentage of net assets.

2. Participants shall be furnished with quarterly reports, which may be unaudited, containing the same information required in D.1.a. and D.1.b. within 60 days after the end of the quarter.

3. All participants shall be provided all information necessary for the preparation of the participants' income tax returns by not later than March 15 of each year.

4. The net assets of the program shall be calculated daily and the net asset value per unit shall be made available upon the request of a participant.

4 MCAR § 1.2145 Disclosure and marketing requirements.

A. Minimum program capital. The minimum amount of funds required to activate a program shall be sufficient to accomplish the objectives of the program, including diversification. Any minimum less than $500,000, after deduction of any organizational and offering expenses, including commissions, will be presumed to be inadequate to diversify. Provision must be made for the return to participants of 100 percent of paid subscriptions in the event that the established minimum to activate the program is not reached. All funds received prior to activation of the program must be deposited with an independent custodian, trustee or escrow agent whose name and address shall be disclosed in the prospectus.

B. Sales literature. Sales literature, sales presentations (including prepared presentations to prospective participants at group meetings) and advertising used in the offer or sale of program interests shall conform in all applicable respects to the requirements of filing, disclosure and adequacy currently imposed by SDiv 2123 on sales literature, sales presentations and advertising used in the sale of corporate securities.

C. Contents of the prospectus.

1. Information on the cover page. There should be set forth briefly on the cover page, or the following two printed pages of the prospectus, a summary which should include the following: the title and general nature of the program interests being offered; the minimum and maximum aggregate amount of the offering; the minimum and maximum amount of net proceeds; the subscription price; the period of the offering; the maximum amount of any sales or underwriting commissions to be paid (or if none, whether such commissions are to be paid by the sponsor(s)).

2. Sales to appropriate persons. There shall be set forth a description of the type of person who could benefit from the program and the suitability standards to be applied in marketing it.

3. Definitions. Technical terms used in the prospectus should be defined in a glossary.

4. Risk factors. A participant should be advised in a carefully organized series of short, concise paragraphs, under subcaptions where appropriate, of the risks to be considered before making an investment in a program. The paragraphs should include a cross reference to further information in the prospectus.

5. Business experience. The business experience of the principal officers of all sponsors shall be prominently disclosed in the prospectus. Such disclosure shall indicate their business experience for the past 5 years. Disclosure shall also be made regarding the experience of any commodity trading adviser and any clearing broker who is utilized by the program. The terms of any material contracts entered into by the program shall be summarized in the prospectus.

6. Compensation. All direct and indirect fees and compensation of every type and from every source which may be paid by the program to any person shall be summarized in tabular form in one location in the forepart of the prospectus. A sponsor shall not receive any compensation, direct or indirect, other than that disclosed in the compensation section.

7. Use of proceeds. The prospectus shall state the purposes for which the proceeds of the program are intended to be used and the approximate amount intended to be used for each such purpose.

8. Investment objectives and policies.

a. Describe the investment objectives and policies of the program, indicating which policies may be changed by the sponsor(s) without a vote of the participants.

b. Describe the plan for distribution of income of the program.

9. Prior performance.

a. The previous relevant program experience of any sponsor or adviser shall be disclosed in the prospectus for all programs during the past three years which:

(1) Involved a public offering registered under state or federal securities laws;

(2) Involved a private or limited offering.

b. Information on previous programs shall include, but not be limited to, the following:

(1) Identification of the program, including the name and location;

(2) The effective date of the offering, the date it commenced operations and the date of dissolution or termination or, if it is continuing, that fact;

(3) The total amount of units, the gross amount of capital raised by the program, the number of participants, and the dollar amount of investment of the sponsor, if applicable;

(4) Income credited and cash distributed to participants and to any sponsor, adviser, or clearing broker;

(5) Compensation and fees to any sponsor, segregated as to type;

(6) Compensation and fees paid to other relevant parties such as advisers and clearing brokers;

(7) The net asset value per unit as of the end of each valuation period previously used;

c. All of the foregoing information shall be set forth on a cumulative basis for each program in tabular form wherever possible and include a brief description of any material differences between a prior program and the program to be offered.

d. The following caveat should be prominently featured in the presentation of the foregoing information: "It should not be assumed that participants in the offering covered by this prospectus will experience returns, if any, comparable to those experienced by participants in prior programs."

e. The foregoing information shall be supported in the application for registration by an affidavit that the performance summary is a fair presentation of the information contained in the audited financial statement or the federal income tax returns of the program or in other reports or data.

10. Conflicts of interest and transactions with affiliates.

a. Any conflicts of interest between the program and any sponsor, adviser, clearing broker or any affiliate thereof, must be fully disclosed. This would include, at a minimum the following:

(1) Any conflicts arising out of involvement with previous programs;

(2) Any conflicts arising out of involvement in the area of activities not related to the management, advising or other services performed for commodity pools;

(3) Any other agreements, arrangement or transactions, proposed or contemplated, that may be a potential conflict of interest;

(4) The sponsor shall also be required to disclose the steps that will be taken to alleviate any real or potential conflict of interest;

(5) If the program pays higher than the minimum commission rates for commodity brokerage transactions, such fact shall be set forth along with a justification.

b. Certain material conflicts of interest are presumed to be sufficient to render the proposed program incapable of accomplishing its stated objectives in the best interest of the participants and shall be controlled as follows:

(1) No loans may be made by the program to any sponsor or any other person;

(2) The funds of a program shall not be commingled with the funds of any other person. Funds used to satisfy margin requirements will not be considered commingling;

(3) No rebates or give ups may be received by any person nor may any person participate in any reciprocal business arrangements which could circumvent these guidelines. Furthermore, the prospectus and program agreement shall contain language prohibiting the above as well as language prohibiting reciprocal business arrangements which would circumvent the restrictions against dealing with affiliates or other interested parties;

(4) The program agreement shall prohibit the commodity trading adviser or any other person acting in such capacity from receiving an advisory fee if they share or participate, directly or indirectly, in any commodity brokerage commissions generated by the program;

(5) The maximum period covered by any contract of the program with any adviser, clearing broker, sponsor or affiliate thereof shall not exceed one year. Any contract must be terminable without penalty upon 60 days written notice by the program, which provisions shall be set forth in the program agreement.

(6) Any other agreement, arrangement or transactions, proposed or contemplated, may be restricted in the discretion of the commissioner if it would be considered unfair to the participants in the program.

11. Federal tax consequences. The propsectus shall disclose the following tax aspects:

a. Tax treatment of the program;

b. Tax treatment of the participants;

c. Method of allocation of losses or profits and cash distributions;

d. Any other pertinent information applicable to the tax aspects of the investment; and

e. The possibility that the filing of state tax returns will be required in the states in which interests are held.

12. Commodities futures markets. At a minimum, the prospectus should disclose the following characteristics of the commodities markets:

a. That the commodities markets are extremely volatile and the risk of loss is great;

b. The procedures used in trading commodities futures contracts including, but not limited to, the margin requirements on the commodities to be invested in by the program, the exchanges or board of trade on which the program anticipates trading, and a description of the applicable exchange requirements.

13. Licensing and regulation. The prospectus shall disclose any licensing or registration requirements of the program, including those imposed by the Commodity Futures Trading Commission.

14. Prohibitions. The prospectus shall disclose that the program agreement specifically prohibits the following activities:

a. A program shall not engage in pyramiding;

b. A program shall not utilize borrowing;

c. A program shall not enter into an open position during a delivery month;

d. A program shall not permit the investment of its funds deemed "customer's funds" under the Commodity Exchange Act, as amended, in any securities other than as permitted by the Commodity Futures Trading Commission;

e. A program shall not commit more than 15 percent of its equity in

the trading account at any time for margin in any one commodity irrespective of the delivery month. For this purpose gold and silver bullion, coins and futures contracts shall be considered one commodity;

f. A program's trading policy shall specifically exclude the purchasing, selling, writing or trading in commodity options or purchasing or selling securities, other than those mentioned in C.14.d.;

g. A program shall not engage in cash commodity transactions unless the cash commodity is fully hedged;

h. A sponsor shall not commit more than two-thirds of the net assets of a program as margin for commodity futures contracts and the balance of such assets shall be retained in cash or cash equivalent to apply as needed for additional margin or for redemption;

i. A sponsor shall not permit the churning of the program's account so as to generate a commission for itself or for the benefit of any other person.

15. Notification. Each participant shall be notified within seven business days from the date of any decline in the net value per unit to less than 50 percent of the amount on the last valuation date. Included in the notification shall be a description of the participants' voting rights pursuant to 4 MCAR § 1.2144 B.

16. Material changes. Any material changes in the program's basic investment or trading policies or structure shall require prior written approval by a majority of program interests held by participants. This shall include, specifically, any transfer or withdrawal of any sponsor's required interest in the program.

17. Summary of any limited partnership agreement or other program agreement.

18. Legal proceedings. Briefly describe any legal proceedings to which the program or any person is or was a party which is material to the program and any material legal proceedings between any sponsor and participants in any prior program of the sponsor.

19. Financial information required on application. A sponsor and the program shall provide as an exhibit to the application for registration or where indicated below shall provide as part of the prospectus, the following financial information and financial statements:

a. Balance sheet of the program. As part of the prospectus, a balance sheet of the program as of the end of its most recent fiscal year, prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report without material qualification by an independent certified public accountant or an independent public accountant, and an unaudited balance sheet as of a date not more than 90 days prior to the date of filing;

b. Balance sheet of a sponsor.

(1) Corporate sponsor. A balance sheet of a corporate sponsor as of the end of its most recent fiscal year, prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report without material qualification by an independent certified public accountant or an independent public accountant and an unaudited balance sheet as of a date not more than 90 days prior to the date of filing. Such statements shall be included in a prospectus,

(2) Individual sponsor. A balance sheet for each individual sponsor as of a time not more than 90 days prior to the date of filing an application; such balance sheet may be audited and should conform to generally accepted accounting principles and shall be signed and sworn to by such sponsor. A representation of the individual's net worth must be included in the prospectus;

c. Statement of income for corporate sponsor. A statement of income for the last fiscal year of a corporate sponsor (or for the life of a corporate sponsor, if less) prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report without material qualification by an independent certified public accountant or independent public accountant, and an unaudited statement for any interim period ending not more than 90 days prior to the date of filing an application.

4 MCAR § 1.2146 Miscellaneous provisions.

A. Fiduciary duty. The program agreement shall provide that the sponsor(s) shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the program, whether or not in its immediate possession or control, and that it shall not employ, or permit another to employ, such funds or assets in any manner except for the exclusive benefit of the program.

B. Redemptions. The program shall provide an opportunity at least quarterly for the redemption of program interests at the net asset value as of the valuation dates upon the written request of any participant. The participant must notify a sponsor of his intent to redeem at least 30 days prior to the redemption date. The prospectus and program agreement must indicate the valuation dates for redemption. Such requests must be honored within 30 days following the valuation date, unless the quantity of redemptions would be detrimental to the tax status of the program. In that case, redemptions may be selected by lot, and participants notified within 30 days whether or not their program interests were redeemed. The program agreement may provide for the suspension of redemptions if the effect of substantial redemptions would impair the ability of the program to operate in pursuit of its objectives.

4 MCAR §§ 1.2147-1.2149 Reserved for future use.

4 MCAR § 1.2150 Waiver.

A. The requirements of subchapters 4, 5, 6, 7, and 8 may be waived by the commissioner upon proof of substantial compliance with rules, statements of policy or guidelines of national or regional securities regulatory organizations composed of securities administrators of this and other states.

B. Any such waiver shall be granted upon a determination by the commissioner that compliance with such rules, statements of policy or guidelines is:

1. consistent with the purposes fairly intended by the policy and provisions of Minn. Stat. § § 80A.01 to 80A.31 (1978), as amended,

2. appropriate for the protection of investors, and

3. promotive of uniformity of regulation.
[effective 2-21-81]

4 MCAR § 1.2151 A diamond, ruby, emerald, or sapphire constitutes an "investment gem" pursuant to Minn. Stat. § 80A.14(j)1978), as amended.
[effective 2-21-81]

MINNESOTA SECURITIES ACT (MINN. STAT. CH. 80A)

FORMS

INDEX (Alphabetical)

* Available from the National Association of Securities Dealers, 1735 K Street N.W., Washington, D.C. 20006; phone (202) 833-7174.

** Available from the Securities and Exchange Commission (Forms and Publications), Washington, D.C. 20549; phone (202) 523-3761.

GENERAL INSTRUCTIONS FOR PREPARING AND FILING FORM U-4

1. This form is to be used to apply for registration, licensing, or for certain types of financial participation in broker/dealer firms. It is accepted by a number of agencies, jurisdictions, and/or organizations.
2. *All information must be typed or neatly printed in* BLACK INK.
3. In examining the form, you will note that there are two sets of boxes. The larger elongated boxes should be left blank.
4. Page 1 requires the signature of the appropriate signatory; Pages 2, 3, and 4 require the signature of the applicant.
5. All questions on the form must be answered unless specifically directed otherwise. Failure to do so will cause the agency, jurisdiction or organization to which the form is sent to return it unprocessed and thus delay registration and increase cost.
6. *All attachments must be submitted in the same format as the* questions to which response is made, and should be typewritten on 8½ by 11 bond paper. Space permitting, the answers to more than one question may appear on an attachment sheet, so long as the questions are clearly identified. Be certain the name of both the applicant and the member firm appear on every attachment sheet.
7. For the purposes of this form, the term "agency" means any regulatory body of the *Federal* Government (e.g. The Securities and Exchange Commission).
8. For the purposes of this form, the term "jurisdiction" means a state, a territory, the District of Columbia, the Commonwealth of Puerto Rico, a province of the Dominion of Canada or any subdivision or regulatory body thereof.
9. For the purposes of this form the terms "self-regulatory organization" or "organization" mean any national securities exchange, any registered national securities association (e.g. the NASD), *or any registered clearing agency.*
10. All information required by Form U-4 must be submitted on the officially prescribed form, or mechanical reproduction thereof. All pages containing this information may be mechanically reproduced by any method producing clear, legible copies of identical type size. *All required signatures must be originals; mechanical reproductions of signatures will not be accepted.* See "Index for Addenda to Form U-4" for special instructions on filing addenda.

The purpose of Form U-4 is to bring uniformity and resultant simplicity to the registration and licensing of principals, representatives and/or agents. Therefore, it is essential that each applicant consult the following instructions before completing questions 13-54.

Instructions for Completing Uniform Application for Securities and Commodities Industry Representative and/or Agent (Form U-4)

Questions #1 – 12 MUST BE COMPLETED BY THE EMPLOYER

Question #1 & 2:
Fill in applicant's full legal name (indicate Mr. or Ms.) and social security number.

Question #3:
Give date applicant first started employment with the member firm.

Question #4:
Give the firm's computerized NASD identification number (if known and applicable).

Questions #5 & 6:
Give complete name of your organization and the address of the firm's main office. (Including zip code)

Question #7:
Give address of the office in which applicant will be employed.

Question #8:
Identify city of NASD district office having jurisdiction over the applicant's *registered* office of employment (does not apply to non-NASD member organizations).

Question #9:
Check whether applicant will be registered with: 1) the NASD, or 2) SECO. Also, check all applicable boxes which correctly indicate the registered national securities or commodities exchange(s) with which applicant will be registered.

Question #10:
Check all appropriate boxes to indicate the *jurisdictions* with which applicant will be registered/licensed.

Question #11:
Since the applicant could be classified in more than one category, be certain to check all applicable boxes (e.g., the applicant could be applying as a registered representative, vice president and non-voting stockholder). Consult the rules and statutes of the appropriate exchange, association and/or jurisdiction. "Part-time" and "full-time" refer to all standard registration categories. The appropriate designation must be made for all applicants requesting registration with the NASD or SECO, along with the specific registration category(ies) sought. For NASD purposes, a non-OSJ branch office manager should check the appropriate box under standard registration as well as "branch office manager" under intermediate registration. If the position applied for does not appear, check the box marked "other" and specify position.

Question #12:
State what measures your organization has taken to verify applicant's employment background spanning the last three years. An appropriate signatory must sign and date the application. Please also type or print the principal's name. *For the exchanges and the NASD an appropriate signatory normally means a "registered principal"; for SECO purposes an appropriate signatory means a principal officer, general partner, sole proprietor or managing agent.*

THE REMAINDER OF THE FORM MUST BE COMPLETED BY THE APPLICANT

PERSONAL HISTORY

Question #13:
Give FULL legal name including maiden name, if applicable. DO NOT use nicknames, former names or aliases.

Question #14:
If federal law does not require you to have a social security record, such as foreign nationals working in foreign offices, write "Not Applicable—Foreign National."

Questions #15 & 16:
This should be your CURRENT legal address. If you expect to move within three months from the date on which the application is submitted and know the new address, give the new address on a separate attachment or notify the agency, jurisdiction or organization with which you are registering immediately after the new address is known.

Question #17:
Give full date: Month, day, year.

Question #18:
Give city and state. If born outside the U.S., give city and country.

Question #19:
Check appropriate box.

Question #20:
Give current marital status: Single, married, divorced, separated or widowed.

Question #21:
Include any names by which you are or have been known, other than your current legal name. This would include any nicknames by which you have been known since adulthood.

Question #22:
Give either FULL name of husband or FULL name of wife including her maiden name. Do not use nicknames or aliases.

Questions #23 & 24:
Give FULL maiden name of mother and FULL name of father. Do not use nicknames or aliases.

Question #25:
Give a complete list of schools attended, dates of attendance, major courses taken, day or evening classes (or both), type of degree awarded (if applicable). Do not list pre-high school education, unless it was the last school attended. Answers must be precise, accurate and complete if costly delay in processing is to be avoided.

Question #26:
Show all employment, self-employment and military service for the last ten years. Be certain to include accurate dates, and the full names and addresses of all previous employers. Answers must be precise, accurate and complete if costly delay in processing is to be avoided.

NOTE:

1. ALL TIME MUST BE ACCOUNTED FOR—even periods of unemployment.
2. DO NOT list a school in the employment section unless you were employed by that school.
3. List all part-time employments that were in the securities industry.
4. Extended vacations (more than one month) are treated as periods of unemployment and must be listed on the application.
5. If you were unemployed for SIX months or more at a time, submit three letters of reference from persons not related to you verifying this unemployment. (Not required for NASD or SECO purposes)
6. If you were self-employed, submit three letters of reference, preferably from persons with whom you did business, verifying the trade name of your business, and stating that your business was honestly conducted, the type of business, and the dates you were associated with it (Not required for NASD or SECO purposes)
7. If you worked for a company that you know has since gone out of business, submit three letters from persons unrelated to you who knew you during this period of time attesting that you worked for the company during the period indicated. (Copies of W-2 forms are also acceptable if the letters cannot be obtained) (Not required for NASD or SECO purposes)
8. If you worked for a company that has moved or merged or is a subsidiary of another company, furnish the new address or the name and address of the company where the employment records are kept.
9. Attach Form DD-214 (separation papers) if you have served in the Armed Forces. (Not required for NASD or SECO purposes)

Question #27:

List all home addresses for the last 10 years starting with your present address. Please do not give post office boxes

Question #28:

If you have never had a brokerage account, indicate "None" on the application. If you had or have an account, list the name of the firm or bank; the account number, the type of account (cash or margin); the status (open or closed); and give the approximate dates.

Question #29:

Read this statement carefully before signing.
THE TEN YEAR LIMIT DOES NOT APPLY TO QUESTIONS 30 THROUGH 55. IF THE ANSWER TO ANY *QUESTIONS IS "YES", ATTACH COMPLETE DETAILS.* WHERE ADDITIONAL SPACE IS NEEDED, SEE #6 UNDER GENERAL INSTRUCTIONS FOR PREPARING AND FILING FORM U-4.

Question #30:

Furnish the requested details if the answer to any part of this question is "Yes".

Question #31:

List all state and Federal agencies (SEC, Department of Agriculture, etc.) with whom you were registered or licensed to deal in securities or commodities and the dates of registration. State whether the registration(s) or license(s) are currently in effect. List all employers with whom you were associated during these periods unless they have been indicated in question 26. So state this if they have.

Question #32:

The following information should be furnished:

1. The full name and address of the business,
2. the nature of the business,
3. your title or position,
4. a brief description of your duties,
5. the amount of time you devote to the business,
6. whether it is during securities trading business hours, and
7. the amount of compensation you receive.

Question #33:

Excluding companies registered under the Investment Company Act of 1940, indicate complete name(s) of investment club(s), partnership(s), hedge fund(s), or joint accounts(s) and nature of investments(s). Attach a copy of the Partnership Agreement or Articles of Incorporation, if one exists. If one does not exist, so state.

Questions #34 & 35:

State whether your insurance or real estate license is active or inactive. If you will not use your license on behalf of the firm listed in response to question #5, please so indicate

Question #36:

Give the name of the insurance company under which you are bonded and the amount of your coverage. This information can be obtained from your employer

Questions #37 and 38:

If your response to either #37 or #38 is "Yes", give name and address of insurance company and when and why it refused the bond or paid out funds in your behalf.

Question #39:

Read this question carefully, as it is often answered incorrectly. For the purposes of this question, "Member" means anyone who owns a seat on an exchange, or was admitted as an associate member of an exchange. If answer is "Yes", list the exchange with which you were a member, along with the corresponding dates of such membership

Question #40:

If your response to question #40 is "Yes", indicate the name of the firm, your exact capacity with the firm, the circumstances leading to its liquidation, and whether liquidation was conducted by the Securities Investor Protection Corporation or through any other means.

Questions #41 – 49 Disciplinary Action:

For each question answered "Yes", supply the following information:

1. Who was involved.
2. When it happened.
3. What the circumstances were, in your own words.
4. What the final determination was, if any.
5. A copy of the proceeding, if available.

Question #50:

If "Yes", be specific. Any customer complaints or legal proceedings must be listed, whether resolved or pending at the present time. A major complaint includes any written complaint which involves any: 1) claim of actual damages in excess of $10,000, or 2) claim for damages which is settled for an amount exceeding $2,500, or 3) allegations of theft of funds or securities, or of forgery of documents or similar dishonesty. If you were terminated by an employer for this reason or had your business connection severed in any way, be sure to supply all details. These should include firm name, approximate date, name of customer filing the complaint, a description of the complaint, and what action, if any, was taken.

Question #51:

If answered "Yes", explain in your own words the circumstances which led to the bankruptcy. If the bankrupt has been discharged, furnish a copy of the court's Discharge of Bankrupt, if the bankrupt has not been discharged, provide the following:

1. A list of all creditors. (Not required for NASD or SECO purposes).
2. Letters from three or more of the major creditors stating that to the best of their knowledge they felt that the bankruptcy was due to mismanagement or economic conditions and was legitimate rather than due to fraud, nor was it any reflection on the individual's personal integrity. (Not required for NASD or SECO purposes).
3. A letter from your lawyer stating the same. (Not required for NASD or SECO purposes).
4. A letter, if possible, from the court or court appointed Referee or Trustee in bankruptcy stating the same. (Not required for NASD or SECO purposes).

Questions #52 – 54 Criminal and Litigation:

Give a complete explanation of the circumstaces in your own words, including the final determination if one has been rendered. Include specific details such as dates, city, state, court and docket number.

Questions # 53:

Give complete details such as dates, city, state, court, docket number and the name of the firm involved. Be sure to supply an explanation of what occurred in your own words as well as the final outcome if you know it.

Question #54:

Give complete details including dates, city, state, court, docket number and an explanation of the circumstances in your own words. Attach a copy of the judgment if available.

Notarization of applicant's signature is not required for NASD purposes.

INDEX FOR ADDENDA TO FORM U-4

	REGISTERED REPRESENTATIVE	ALLIED MEMBER PRINCIPAL	FINANCIAL PARTICIPANT	BRANCH MANAGER & OFFICER	MEMBERSHIP
STATES	A[1]	A[1]	A[1]	A[1]	—
AMERICAN STOCK EXCHANGE, INC.	B-1	B-2	B-3	B-1	—
BOSTON STOCK EXCHANGE	C	—	—	—	—
CINCINNATI STOCK EXCHANGE	D-1	D-1 & 2	D-1 & 2	D-1	—
DETROIT STOCK EXCHANGE	—	—	—	—	E
MIDWEST STOCK EXCHANGE, INC.	F-1	F-1 & 3	F-1 & 2	F-1 OR F-4	—
NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.	N-1[2]	N-1[2]	N-1[2]	N-1[2]	—
NEW YORK STOCK EXCHANGE, INC.	G-1	G-2&3&4&5	G-2 & 3	G-1	G-2&3&4&5&6&7
PACIFIC STOCK EXCHANGE	—	H	H	—	H

[1] Plus the special state addendum, where required.
[2] The ORIGINAL N-1 must be filed with the NASD. Copies thereof are not acceptable.

STATE INFORMATION

State	Abbr	Registration Fee	Photograph	Fingerprints	Bond	Letters of Reference	Physical Description
ALABAMA	AL.	$20.00	NO	NO	NO	NO	NO
ALASKA	AK.	$75.00	YES	YES	YES	YES	NO
ARIZONA	AZ.	$ 5.00	NO	YES	NO	YES	YES
ARKANSAS	AR.	$50.00	YES	YES	YES	YES	NO
CALIFORNIA	CA.	$50.00	NO	YES	NO	NO	YES
COLORADO	CO.	$20.00	YES	YES	NO	NO	YES
CONNECTICUT	CT.	$20.00	YES	NO	NO	NO	NO
DELAWARE	DE.	$10.00	NO	NO	NO	NO	NO
DISTRICT OF COLUMBIA	D.C.	$12.50	NO	YES	NO	NO	YES
FLORIDA	FL.	$20.00	YES	YES	NO	NO	YES
GEORGIA	GA.	$50.00	YES	NO	YES	NO	NO
HAWAII	HI.	$ 5.00	NO	NO	NO	NO	NO
IDAHO	ID.	$20.00	YES	YES	NO	NO	NO
ILLINOIS	IL.	$10.00	NO	NO	NO	NO	NO
INDIANA	IN.	$15.00	NO	NO	NO	NO	NO
IOWA	IA.	$10.00	NO	NO	NO	YES	YES
KANSAS	KS.	$15.00	NO	YES	YES	NO	NO
KENTUCKY	KY.	$15.00	YES	NO	NO	NO	YES
LOUISIANA	LA.	$20.00	NO	NO	NO	NO	NO
MAINE	ME.	$10.00	YES	NO	NO	YES	YES
MARYLAND	MD.	$15.00	NO	NO	NO	NO	NO
MASSACHUSETTS	MA.	$20.00	YES	NO	NO	NO	NO
MICHIGAN	MI.	$10.00	YES	YES	NO	NO	YES
MINNESOTA	MN.	$50.00	NO	NO	YES	NO	NO
MISSISSIPPI	MS.	$10.00	YES	NO	NO	YES	YES
MISSOURI	MO.	$10.00	YES	NO	YES	YES	NO
MONTANA	MT.	$10.00	YES	NO	YES	YES	YES
NEBRASKA	NE.	$15.00	NO	NO	NO	YES	NO
*NEVADA	NV.	$25.00	YES	YES	YES	YES	YES
NEW HAMPSHIRE	NH.	$50.00	YES	NO	NO	NO	YES
NEW JERSEY	N.J.	$30.00	YES	YES	NO	NO	YES
NEW MEXICO	N.M.	$10.00	YES	NO	NO	YES	YES
NEW YORK	N.Y.	$10.00	YES	YES	NO	NO	NO
NORTH CAROLINA	N.C.	$10.00	YES	NO	YES	YES	YES
NORTH DAKOTA	N.D.	$12.50	NO	NO	NO	YES	YES
OHIO	OH.	$15.00	YES	NO	NO	YES	NO
OKLAHOMA	OK.	$10.00	YES	NO	YES	NO	YES
*OREGON	OR.	$25.00	NO	NO	NO	NO	NO
PENNSYLVANIA	PA.	$50.00	YES	YES	NO	NO	YES
RHODE ISLAND	R.I.	$20.00	NO	NO	NO	YES	NO
SOUTH CAROLINA	S.C.	$10.00	YES	NO	YES	NO	YES
SOUTH DAKOTA	S.D.	$15.00	YES	NO	YES	YES	NO
TENNESSEE	TN.	$10.00	YES	NO	NO	NO	YES
TEXAS	TX.	$15.00	YES	NO	NO	NO	YES
UTAH	UT.	$10.00	YES	NO	NO	NO	NO
VERMONT	VT.	$15.00	YES	NO	NO	YES	NO
VIRGINIA	VA.	$10.00	YES	NO	NO	YES	NO
WASHINGTON	WA.	$25.00	YES	NO	NO	NO	NO
WEST VIRGINIA	W.V.	$15.00	YES	NO	NO	YES	NO
WISCONSIN	WI.	$20.00	NO	NO	NO	NO	NO
WYOMING	WY.	$10.00	NO	NO	NO	NO	NO
PUERTO RICO	PR.	$ 5.00	YES	NO	YES	NO	NO

*Unnecessary to submit Form U-4 if representative is registered with the NASD.

FORM U-4

UNIFORM APPLICATION FOR SECURITIES AND COMMODITIES INDUSTRY REPRESENTATIVE and/or AGENT

1. APPLICANT'S NAME Mr. Ms. _____ (LAST) (FIRST) (Middle (If None, so specify))

2. ☐☐☐-☐☐-☐☐☐☐ (SOCIAL SECURITY NUMBER) ☐

3. DATE OF EMPLOYMENT _____ ☐

4. NASD FIRM NUMBER ☐☐☐☐☐ ☐ 5. FIRM NAME _____ ☐

6. FIRM ADDRESS _____

7. OFFICE OF EMPLOYMENT OF APPLICANT _____ ☐

8. NASD DISTRICT IN WHICH OFFICE IS LOCATED _____ ☐

9. TO BE REGISTERED WITH THE FOLLOWING: *(Check All Applicable)*

NATIONAL ASSOCIATION OF SECURITIES DEALERS (NASD) ☐ ☐

American Stock Exchange ☐ ☐	Chicago Mercantile Exchange ☐ ☐	SECURITIES AND EXCHANGE COMMISSION ONLY (SECO) ☐ ☐			
Boston Stock Exchange ☐ ☐	Cincinnati Stock Exchange ☐ ☐	New York Stock Exchange ☐ ☐			
Chicago Board of Trade ☐ ☐	Detroit Stock Exchange ☐ ☐	Pacific Stock Exchange ☐ ☐			
Chicago Board Options Exchange ☐ ☐	Intermountain Stock Exchange ☐ ☐	PBW Stock Exchange ☐ ☐			
	Midwest Stock Exchange ☐ ☐	Spokane Stock Exchange ☐ ☐			
		Other (Specify) ☐ ☐			

10. TO BE REGISTERED WITH THE FOLLOWING JURISDICTIONS: (Check all applicable)

AL ☐ ☐	DE ☐ ☐	IN ☐ ☐	MA ☐ ☐	NV ☐ ☐	ND ☐ ☐	SC ☐ ☐	VA ☐ ☐
AK ☐ ☐	DC ☐ ☐	IA ☐ ☐	MI ☐ ☐	NH ☐ ☐	OH ☐ ☐	SD ☐ ☐	WA ☐ ☐
AZ ☐ ☐	FL ☐ ☐	KS ☐ ☐	MN ☐ ☐	NJ ☐ ☐	OK ☐ ☐	TN ☐ ☐	WV ☐ ☐
AR ☐ ☐	GA ☐ ☐	KY ☐ ☐	MS ☐ ☐	NM ☐ ☐	OR ☐ ☐	TX ☐ ☐	WI ☐ ☐
CA ☐ ☐	HI ☐ ☐	LA ☐ ☐	MO ☐ ☐	NY ☐ ☐	PA ☐ ☐	UT ☐ ☐	WY ☐ ☐
CO ☐ ☐	ID ☐ ☐	ME ☐ ☐	MT ☐ ☐	NC ☐ ☐	RI ☐ ☐	VT ☐ ☐	PR ☐ ☐
CT ☐ ☐	IL ☐ ☐	MD ☐ ☐	NE ☐ ☐				

11. TYPE OF APPROVAL REQUESTED:

STANDARD REGISTRATION (Registered Representative)

- FULL REGISTRATION/GENERAL SECURITIES ☐ ☐
- LIMITED REGISTRATION ☐ ☐
- REGISTERED COMMODITY REPRESENTATIVE ☐ ☐
- AGENT OF ISSUER ☐ ☐
- INV. CO. & VARIABLE CONTRACTS PRODUCTS ☐ ☐
- SECURITIES TRADER ☐ ☐
- REAL ESTATE SECURITIES ☐ ☐
- DIRECT PARTICIPATION PROGRAMS ☐ ☐
- OTHER (Specify) _____ ☐ ☐
  - PART TIME (NASD or SECO) ☐ ☐
  - FULL TIME (NASD or SECO) ☐ ☐

INTERMEDIATE REGISTRATION

- BRANCH OFFICE MANAGER ☐ ☐
- SUPERVISORY ANALYST ☐ ☐
- OFFICER (Title) _____ ☐ ☐
- OTHER (Specify) _____ ☐ ☐

PRINCIPAL REGISTRATION

- Member (Exchange) ☐ ☐
- Regular _____ ☐ ☐
- Associate _____ ☐ ☐
- Approved Person (Exchange) _____ ☐ ☐
- Holder of Voting Stock ☐ ☐
- Holder of Non-Voting Stock ☐ ☐
- Subordinated Lender ☐ ☐
- Holder of Debentures ☐ ☐
- Director ☐ ☐
- General Partner ☐ ☐
- Limited Partner ☐ ☐
- Officer (Title) _____ ☐ ☐
- Allied Member/Gen. Securities Principal ☐ ☐
- Sole Proprietor ☐ ☐
- Manager Office of Supv. Jurisdiction ☐ ☐
- Financial and Operations Principal ☐ ☐
- Direct Participation Programs ☐ ☐
- Investment Co. & Variable Contracts Products ☐ ☐
- Underwriter Principal ☐ ☐
- Other (Specify) _____ ☐ ☐

12. To the best of my knowledge and belief the applicant at the time of approval will be familiar with the statute(s), constitution(s) and rules of the agency, jurisdiction or organization with which this application is being filed, and the rules governing registered persons, and will be fully qualified for the position for which application is being made herein. I agree that notwithstanding the approval of such agency, jurisdiction or organization, which hereby is requested, I will not employ the applicant in the capacity stated herein without first receiving the approval of any authority which may be required by law. This firm has communicated with all the previous employers of the applicant during the past three years, as set forth below:

EMPLOYER	NAME AND POSITION OF PERSON CONTACTED	EMPLOYED FROM/TO	CONTACTED BY PHONE, LETTER OR INTERVIEW

In addition, I have taken appropriate steps to verify the statements contained in this application and to inquire into the past record and reputation of the applicant.

Date _____ Print Name of Appropriate Signatory (See Instruction 12) _____ Signature of Appropriate Signatory _____

DO NOT WRITE IN THIS SPACE

Experience _____ Clearance _____

Further Training Required _____ Exam Taken: Date _____

Exam Required _____ Grade _____

Issue _____ Date Approved: Cond. _____

Exam Grade OK _____ Final _____

PERSONAL HISTORY

13. Mr. / Ms. ____ 14. ____
Last Name First Middle Maiden (If Applicable) Social Security Number

15. ____ 16. ____
Address City State Zip

17. / / ____ 18. ____ 19. Citizen of US? Yes ☐ No ☐
Date of Birth Place of Birth If no, state country of citizenship ____

20. ____ 21. ____
Marital Status Alias (If None, Indicate)

22. ____ 23. ____
If Married, Full Name of Spouse & Maiden Name (If Applicable) Mother's Full Maiden Name

24. ____
Father's Full Name

IF MORE SPACE IS NEEDED FOR ANY OF THE FOLLOWING QUESTIONS, ATTACH A SEPARATE SHEET

25. EDUCATION

Educational Institutions Attended: HIGH SCHOOL ☐ ____ COLLEGE ☐ ____ GRADUATE SCHOOL ☐ ____

Specify Highest Year Completed: 9 ☐ 10 ☐ 11 ☐ 12 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐

NAME AND ADDRESS OF INSTITUTION (STREET, CITY, STATE, ZIP CODE)	FROM MO. YR.	TO MO. YR.	COURSE	DAY OR EVENING	DID YOU GRADUATE	DEGREE	

26. EMPLOYMENT HISTORY

The following is a complete, consecutive statement of my business history for the past ten years starting with my current position. (All time must be accounted for including self-employment, unemployment, part-time securities, commodities, insurance and real estate industries or related positions and all military service.)

NAME OF EMPLOYER AND COMPLETE ADDRESS (STREET, CITY, STATE, ZIP CODE)	FROM MO. YR.	TO MO. YR.	POSITION HELD	REASON FOR LEAVING	FULL OR PART-TIME	

27. **RESIDENTIAL HISTORY** (Give all home addresses starting with present address for the past 10 years.)

ADDRESS (Street, City, State, Zip Code)	FROM MO. YR.	TO MO. YR.	

28. The following is a complete list of all brokers, dealers or banks with which I am carrying accounts in securities or commodities or with which I have carried such during the past ten years. (If "none", so state.) ____

NAME AND ADDRESS OF FIRM OR BANK	ACCOUNT NUMBER	CASH OR MARGIN	FROM/TO	OPEN OR CLOSED	

I authorize and request any and all of my former employers and any other person to furnish to the agency, jurisdiction or organization with which this application is being filed, or any agent acting on its behalf, any information they may have concerning my credit worthiness, character, ability, business activities, educational background, general reputation, together with, in the case of former employers, a history of my employment by them and the reasons for the termination thereof. Moreover, I hereby release each such employer and each such other person from any and all liability of whatever nature by reason of furnishing such information to the agency, jurisdiction or organization or any agent acting on its behalf.

Further, I recognize that I may be the subject of an investigative consumer report ordered by the agency, jurisdiction, or organization with which this application is being filed, and that I have the right to request complete and accurate disclosure by such agency, jurisdiction, or organization of the nature and scope of the investigation requested.

Date 29. ____
Signature of Applicant

THE TEN YEAR LIMIT DOES NOT APPLY TO QUESTIONS 30 THROUGH 54.

30. A. Have you ever taken and passed a qualifying examination for registration in any capacity with the NASD, a national securities or commodities exchange or SECO? If yes, state below the type of examination, the approximate date taken and with what regulatory body application was made. ..... Yes___ No___ ☐

Type of Exam | Approximate Date Taken | Regulatory Body

B. Have you ever been granted a waiver of qualifying examination with an agency or organization? If yes, state below the type of examination, the approximate date and by what agency or organization ... Yes___ No___ ☐

Type of Exam | Approximate Date | Regulatory Body

C. Have you ever taken a qualifying examination for any jurisdiction? If yes, state below the type of examination, the approximate date taken and the name of the jurisdiction administering it. ..... Yes___ No___ ☐

Type of Exam | Approximate Date Taken | Regulatory Body

D. Have you ever been exempted or excluded from taking a qualifying examination by any jurisdiction? If yes, state below the type of examination, the approximate date and the name of the jurisdiction issuing the exemption or exclusion Yes___ No___ ☐

Type of Exam | Approximate Date | Regulatory Body

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS YES, ATTACH COMPLETE DETAILS:

31. Have you ever been registered or licensed by any agency or jurisdiction to sell or to deal in securities or commodities as a principal or employee with any registered broker-dealer or to function as an investment adviser? If yes, specify the name of the broker-dealer or investment adviser, dates registered and agency or jurisdiction with which you were registered. ..... Yes___ No___ ☐

32. Are you currently engaged in any other business either as a proprietor, partner, officer, director, trustee, employee or otherwise? ..... Yes___ No___ ☐

33. Do you or any member of your immediate family have any beneficial interest in any investment partnership or corporation (including hedge funds, investment clubs, etc.) or any other domestic or foreign accounts whose primary function is investing in securities or commodities (excluding companies registered under the Investment Company Act of 1940)? ..... Yes___ No___ ☐

34. Are you now or have you ever been licensed to sell insurance? ..... Yes___ No___ ☐

Type of License(s) and Jurisdiction(s) where licensed _____

35. Are you now or have you ever been licensed to sell real estate? ..... Yes___ No___ ☐

Type of License(s) and Jurisdiction(s) where licensed _____

36. Are you currently bonded? (If yes, specify insurance company and amount) ..... Yes___ No___ ☐

37. Have you ever been refused a fidelity bond? ..... Yes___ No___ ☐

38. Has any surety company paid out any funds on your coverage or cancelled your bond? ..... Yes___ No___ ☐

39. Are you now or have you ever been a regular or associate member of any stock exchange or commodity exchange/contract market? ..... Yes___ No___ ☐

40. Have you ever been an officer, director, general partner, owner of ten (10) percentum or more of the voting securities, or controlling person of, or otherwise engaged in any other managerial or supervisory capacity with any broker or dealer for which a trustee has been appointed pursuant to the provisions of the Securities Investor Protection Act of 1970, or that has been liquidated under any other circumstances? ..... Yes___ No___ ☐

41. To your knowledge, are you now or have you ever been the subject of any investigation or proceeding by any securities, commodities or insurance agency, jurisdiction or organization? ..... Yes___ No___ ☐

42. Are you now or have you ever been a defendant in any litigation alleging the violation of any agreement with or provision of a securities or commodities industry self-regulatory organization's constitution, by-laws or rules, or any securities, commodities or insurance law or regulation? ..... Yes___ No___ ☐

43. Are you now or have you ever been a director, controlling stockholder, partner, officer, sole proprietor, or associated person with a broker-dealer or insurer which during the time of such association was suspended, expelled, or had its registration denied or revoked by any agency, jurisdiction or organization? ..... Yes___ No___ ☐

44. Are you now or have you ever been subject to an order of the NASD, a securities or commodities exchange, an agency or any jurisdiction which revokes, suspends or denies membership or registration? ..... Yes___ No___ ☐

45. Has any permanent or temporary injunction ever been entered against you or any broker-dealer, insurer, investment adviser or commodities firm with which you were associated in any capacity at the time such injunction was entered? ..... Yes___ No___ ☐

46. Are you now or have you ever been (whether or not publicly disclosed) suspended, expelled, fined, barred, censured or otherwise disciplined, or found to have violated any securities or commodities law or rule by any securities or commodities agency, jurisdiction or organization; or been refused membership therein or withdrawn your application for such membership; or been refused a license to sell insurance or had one suspended or revoked for cause by any jurisdiction or agency? ..... Yes___ No___ ☐

47. Are you now or have you ever been named as an aider, abettor, or a co-conspirator in, or cause of, any action mentioned in questions 40, 41, 42, 43, 44, 45 and 46, taken with respect to a broker-dealer or insurer? ..... Yes___ No___ ☐

Date | Signature of Applicant

48. Are you now or have you ever been suspended, expelled, fined, barred, censured or otherwise disciplined by an employer in the securities, commodities or insurance industry? ... Yes___ No___ [ ]

49. Have you ever had denied, suspended or revoked a license, permit, certificate, registration or membership required to engage in securities, commodities, insurance or other business or profession? ... Yes___ No___ [ ]

50. In your previous business connections or employment, have you ever been:
    a. a subject of a major complaint or legal proceeding? ... Yes___ No___ [ ]
    or,
    b. discharged or requested to resign by an employer because of dishonest or unethical acts *alleged to have been committed by you?* ... Yes___ No___ [ ]

51. Have you or any firm, corporation or association of which you have been a principal or officer ever failed in business, made a compromise with creditors or ever filed or been declared bankrupt under any bankruptcy acts? ... Yes___ No___ [ ]

52. Have you ever been:
    a. Arrested or indicted for any felony or misdemeanor involving the purchase, sale, or delivery of any security, or arising out of the conduct of the business of a broker, dealer, fiduciary, investment company, investment adviser, underwriter, bank, trust company, insurance company or other financial institution, or involving any crime in which violence or threats of violence against any person, dishonesty, the wrongful taking of any property, or any manner of fraud was a factor, or involving conspiracy to commit any of the foregoing? ... Yes___ No___ [ ]
    or,
    b. Convicted of, or pleaded *nolo contendere* to, any felony or any misdemeanor, except minor traffic offenses? ... Yes___ No___ [ ]

53. Have you ever been a principal or employee of any firm, corporation or association which, while you were associated with it, was convicted of, or pleaded *nolo contendere* to, any felony or misdemeanor? ... Yes___ No___ [ ]

54. Are you currently the subject of an unsatisfied judgement or lien? ... Yes___ No___ [ ]

THE FOLLOWING SHOULD BE READ VERY CAREFULLY BY THE APPLICANT

1. I hereby certify that I have read and understand the foregoing statements and that my responses are true and complete to the *best of my knowledge.*
2. To induce the agency, jurisdiction or organization with or to which I am filing or submitting this application to receive and consider it:
   A. I agree that any decision of the agency, jurisdiction or organization as to the results of any examination(s) that I may be required to pass will be accepted by me as final;
   B. (1) I understand that I am not authorized to sell, or offer for sale, any securities until I have received my license or registration certificate or an official notification of its effective date;
      (2) I understand that I am to sell only those securities authorized by my employer.
   C. I agree to abide by the Statute(s), Constitution(s), Rules and By-Laws as any of the foregoing are amended from time to time of the agency, jurisdiction or organization with or to which I am filing or submitting this application;
   D. *If I shall violate or be charged with the violation or possible violation of any Statute, Rule, Constitution or By-Law of any* agency, jurisdiction or organization with or to which I am filing or submitting this application, I agree to be subject to and abide by the penalties of the Statute(s), Constitution(s), Rules and By-Laws of such agency, jurisdiction or organization.
3. Further, and in consideration of the securities or commodities self-regulatory organization receiving and considering this application, I submit myself to the jurisdiction of such organization(s).
4. I, _____, the undersigned applicant do solemnly swear that the answers to the above questions and the statements herein made are true, and that I have not herein made any statement, which is at this time and in the light of the circumstances under which it is made, false or misleading in any material respect.
5. I, the undersigned, for the purpose of complying with the laws of the State of _____ relating to either the registration or sale of securities or commodities, hereby irrevocably appoint the administrator, or such other person designated by law, and the successors in such office, my attorney in said State upon whom may be served any notice, process or pleading in any action or proceeding against me arising out of or in connection with the offer or sale of securities or commodities, or out of the violation or alleged violation of the aforesaid laws of said State; and I do hereby consent that any such action or proceeding against me may be commenced in any court of competent jurisdiction and proper venue within said State by service of process upon said appointee with the same effect as if I was a resident in said State and had lawfully been served with process in said State. It is requested that a copy of any notice, process or pleading served hereunder be mailed to me at my residence.

_____ _____
Date Signature of Applicant

_____ _____
Date *Signature of Witness*

(Witness must be either a partner of the firm, officer of the corporation, branch office manager, or authorized employee. Please indicate which).

(NOTARIZATION OF APPLICANT'S SIGNATURE)

STATE OF _____ }
County _____ } ss:

Subscribed and sworn before me this _____ day of _____ A.D., 19____

_____ Notary Public

My commission expires _____ County of _____ State of _____

FORM U-4
AD-G-1

NEW YORK STOCK EXCHANGE, INC.

AGREEMENT

MUST BE COMPLETED BY ALL REGISTERED REPRESENTATIVES, BRANCH OFFICE MANAGERS AND OFFICERS

I hereby certify that I have read and understand the foregoing statements and that each of my responses thereto is true and complete, and that the responses in any and all prior applications filed with the New York Stock Exchange, Inc. were true and complete. In consideration of the New York Stock Exchange, Inc.'s receiving and considering my application:

(a) I authorize and request any and all of my former employers and any other person to furnish to the Exchange, *or any agent acting on its behalf*, any information they may have concerning my credit worthiness, character, ability, business activities, *general reputation, mode of living and personal characteristics*, together with, in the case of former employers, a history of my employment by them and the reasons for the termination thereof. *Moreover*, I hereby release each such employer and each such other person from any and all liability of whatsoever nature by reason of furnishing such information to the Exchange *or any agent acting on its behalf.*

Further, I recognize that I will be the subject of an investigative consumer report ordered by the Exchange, and that I have the right to request complete and accurate disclosure by the Exchange of the nature and scope of the investigation requested.

(b) I authorize the New York Stock Exchange, Inc. to make available to any prospective employer, or to any Federal, State or Municipal agency, any information it may have concerning me, and I hereby release the New York Stock Exchange, Inc. from any and all liability of whatsoever nature by reason of furnishing such information.

(c) I agree that the decision of the New York Stock Exchange, Inc. as to the results of any examinations it may require me to take will be accepted by me as final, *and that I shall be subject to the penalties provided for under Rule 345 (d) of the Board of Directors, as from time to time amended*, if, in the opinion of the Exchange, I have

(1) violated any provision of the Constitution or of any rule adopted by the Board of Directors;
(2) violated any of my agreements with the Exchange;
(3) made any misstatements to the Exchange; or
(4) been guilty of (i) conduct inconsistent with just and equitable principles of trade, (ii) acts detrimental to the interest or welfare of the Exchange, or (iii) conduct contrary to an established practice of the Exchange.

(d) I have read the Constitution and Rules of the Board of Directors of the New York Stock Exchange, Inc. and, if approved, I hereby pledge myself to abide by the Constitution and Rules of the Board of Directors of the New York Stock Exchange, Inc. as the same have been or shall be from time to time amended, and by all rules and regulations adopted pursuant to the Constitution, and by all practices of the Exchange.

Further, and in consideration of the New York Stock Exchange, Inc.'s approving my application, I submit myself to the jurisdiction of such Exchange, and I agree as follows:

(a) That I will not guarantee to my employer or to any other creditor carrying a customer's account, the payment of the debit balance in such account, without the prior written consent of the Exchange.

(b) That I will not guarantee any customer against loss in her/his account or in any way represent to any customer that I or my employer will guarantee the customer against such losses.

(c) That I will not take or receive, directly or indirectly, a share in the profits of any customer's account, or share in any losses sustained in any such account.

(d) That I will not make a cash or margin transaction or maintain a cash or margin account in securities or commodities, or have any direct or indirect financial interest in such a transaction or account, except with a member organization or with a bank. I understand and agree that no such transaction may be effected and no such account may be maintained without the prior consent of my employer, and that except for Monthly Investment Plan transactions such employer must receive promptly, directly from the carrying member organization or bank, duplicate copies of all confirmations and statements relating to such transactions or account. I further understand and agree that I shall receive no compensation for commissions or profits earned on any transaction or account in which I have a direct or indirect financial interest, except with the approval of my employer and in accordance with the rules of the Exchange.

(e) That I will not rebate, directly or indirectly, to any person, firm or corporation any part of the compensation I receive as a registered employee, and I will not pay such compensation, or any part thereof, directly or indirectly, to any person, firm or corporation, as a bonus, commission, fee or other consideration, for business sought or procured for me or for any member or member organization of the Exchange.

(f) That at any time, upon the request of Regulation and Surveillance, or of any Committee or Department of the New York Stock Exchange, Inc., I will appear before such Committee or Department and give evidence upon any subject under investigation by such Committee or Department, and that I will produce, upon request of the Exchange, all of my records or documents relative to any inquiry being made by the Exchange.

(g) I understand that any changes in compensation in any form, or additional compensation in any form, may be subject to disapproval by the New York Stock Exchange, Inc., and that I may not be compensated for business done by or through my employer after the termination of my employment, except as may be permitted by the Exchange.

(h) I agree that I will not take, accept or receive, directly or indirectly, from any person, firm, corporation or association, other than my employer, compensation of any nature, as a bonus, commission, fee, gratuity or other consideration, in connection with any securities or commodities transaction or transactions, except with the prior written consent of the Exchange.

(i) I will notify my member organization and Regulation and Surveillance promptly if, during the tenure of my employment I become the subject of any investigation or proceeding by any governmental or securities industry self-regulatory body, a refusal of registration, injunction, censure, suspension, expulsion or other disciplinary action by any governmental or securities industry self-regulatory body; a major complaint by a customer of a member organization or by a broker-dealer in securities, a disciplinary action by a member organization, any litigation or arbitration alleging my violation of any agreement with or provision of any securities industry self-regulatory body's, constitution, by-laws, or rules or any securities law or regulation; or any bankruptcy or contempt proceeding, cease and desist order, injunction or civil judgment as party defendant; or any arrest, summons, arraignment, indictment, or conviction for a criminal offense (other than minor traffic violations), or any material allegation that I have conducted myself in a way which may be inconsistent with just and equitable principles of trade, or detrimental to the interest and welfare of the Exchange, or contrary to an established practice of the Exchange, or if I violate any provision of the Exchange Constitution or of any rule adopted by the Board of Directors or of any securities law or regulation or of any agreement with the Exchange.

(j) I agree that any controversy between me and any member or member organization or affiliate or subsidiary thereof arising out of my employment or the termination of my employment shall be settled by arbitration at the instance of any such party in accordance with the arbitration procedure prescribed in the Constitution and Rules then obtaining of the New York Stock Exchange, Inc.

(k) If the Exchange, during the period of 90 days immediately following receipt by the Exchange of written notice of the termination of my employment gives me written notice that the Exchange is making inquiry into any specified matter or matters occurring prior to termination of such employment, I agree that I will thereafter, comply with any request of the Exchange for me to appear and testify, submit records, respond to written requests, attend hearings, and accept disciplinary charges or penalties with respect to the matter or matters specified in such notice in every respect in conformance with the Constitution, Rules and practices of the *Exchange in the same manner* and to the same extent as required to do if I had remained an employee. If I refuse to accept such written notice or, having been given such notice, refuse or fail to comply with any such request of the Exchange, I agree that such refusal or failure may, in the discretion of the Exchange, act as a bar to future Exchange approval of my employment until such time as the Exchange has completed investigation into the matter or matters specified in such notice; has determined a penalty, if any, to be imposed against me; and until the penalty, if any, has been carried out.

_____ (Date)

_____ (Signature of Candidate)

Witness _____

(Witness must be either a partner of the firm, officer of the corporation, branch office manager, or authorized employee. Please indicate which.)

NYSE 11-74

FORM U-4
AD-A

SUPPLEMENTAL
STATE INFORMATION

Full name of applicant exactly as stated in Item 1 of Form U-4.

Mr.
Ms. _____
LAST FIRST MIDDLE

1. Have you previously been registered as an agent in this state? Yes____ No____

2. Attach the following, where applicable:

____ a) Small photograph taken no more than 3 years prior to date of filing the application.

____ b) Fingerprints on appropriate state forms.

____ c) Letters of reference.

____ d) Bond.

____ e) Proof of successful examination completion.

____ f) Physical description form.

3. Enclosed is the fee in the amount of_____.

(TO BE SIGNED UNLESS THE REQUIREMENT IS WAIVED BY JURISDICTIONS)

4. The acts of this employee in the course of his employment or what might reasonably appear to be in the course of his employment in connection with the offer or sale of any security or commodity shall be considered as our acts; and bind us for any fraudulent misrepresentation or omission in connection with the offer or sale of any security or commodity.

_____ _____ _____
Date Print Name of Appropriate Signatory Signature of Appropriate Signatory

Form 106-

STATE OF MINNESOTA
DEPARTMENT OF SECURITIES AND REAL ESTATE DIVISION
5th Floor Metro Square
St. Paul, Minnesota 55101

[INDIVIDUAL APPOINTMENT OF ATTORNEY FOR SERVICE OF PROCESS]

KNOW ALL MEN BY THESE PRESENTS:

That in compliance with the Laws of the State of Minnesota, _____

_____ a non-resident, does hereby appoint the Commissioner of Securities and Real Estate of the State of Minnesota, his successor or successors, as his true and lawful attorney upon whom may be served all legal process in any action or proceeding in which he may be a party and which relates to or involves any transaction covered by the Securities Laws of the State of Minnesota, and does hereby expressly consent and agree that service upon such attorney shall be as valid and binding as if due and personal service had been made upon him and that such appointment shall be irrevocable.

IN WITNESS WHEREOF, I have hereunto set my hand this _____

day of _____, 19__.

_____

_____

_____
Address
_____

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____ personally appeared before me, a notary public in and for said County and State, _____

_____,

to me known to be the person described in and who executed the foregoing instrument and who, being by me first duly sworn, acknowledged that he executed the same as his free act and deed.

_____

Notary Public, _____County _____

(NOTARIAL SEAL)

My Commission exoires _____

Form 137

STATE OF MINNESOTA
SECURITIES AND REAL ESTATE DIVISION – DEPARTMENT OF COMMERCE
5th Floor Metro Square Building
Seventh and Robert Streets
St. Paul 55101

[BLANKET BOND FOR AGENTS
ACTING FOR ISSUER OR BROKER/DEALER IN SECURITIES]

BOND #_____

KNOW ALL MEN BY THESE PRESENTS: That we,_____
_____of_____,
in the State of_____, as Principal, and_____
of_____, a corporation duly
organized and existing under the laws of the State of_____
and authorized to do business in the State of Minnesota, as Surety, are hereby held and firmly bound unto the State of Minnesota, for the use and benefit of any original purchaser or seller of securities from or through said Principal or for the use and benefit of any other person damaged by any breach of the conditions of this obligation, in the sum of_____Dollars ($_____),*lawful money of the United States, for the payment of which sum well and truly to be made we bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THE ABOVE OBLIGATION ARE SUCH THAT:

WHEREAS, The above-named Principal is a broker/dealer licensed under the provisions of Chapter 80A, Minnesota Statutes, as amended, or issuer of securities make registered pursuant to the provisions of said Act, and has made or is about to make application to the Commissioner of Securities and Real Estate for licenses to sell securities within the State of Minnesota by agents of said Principal; and

WHEREAS, The above-named Principal may, at its option, file a blanket surety bond herein;

NOW, THEREFORE, If the agents of said Principal shall faithfully observe the provisions of the laws of the State of Minnesota relating to the sale of securities, as set forth in Chapter 80A, Minnesota Statutes, as amended, and shall faithfully account for all moneys and securities of another received by said agents as salesmen of said Principal, and shall promptly and faithfully pay all of the obligations and claims for damages for which they may become liable, based upon fraud, deceit, misrepresentation, or otherwise, in the course of their said agency in the sale in Minnesota of any security or securities sold or dealth in by said Principal through said agents under their licenses and within the period thereof, then this obligation shall be void; otherwise to be and remain in full force and effect.

The liability of the surety on this bond, not exceeding $5,000.00 for any one agent of a Broker Dealer or $5,000.00 for any one agent of an issuer, shall be the sum total of any and all recoveries hereunder and shall not exceed_____Dollars ($_____).*

This bond may be canceled by either the Principal or the Surety by giving thirty (30) days notice thereof in writing to the other and mailing by registered mail a copy of said notice to the Commissioner of Securities and Real Estate of the State of Minnesota. In the event of such cancellation, which shall take effect at the expiration of said thirty (30) days, no claim having been made hereunder, the Surety shall refund the unearned premium.

No suit may be maintained to enforce any liability on the bond, unless brought within three years after the sale or other act upon which it is based.

*For agents of broker dealer, a maximum of $50,000; for Agents of an issuer, a maximum of $50,000 or 10% of the aggregate amount of securities offered, whichever is less.

IN WITNESS WHEREOF, We have hereunto set our hands and seals this _____day of_____, 19__.

_____
Principal

(Corporate Seal if a corporation)

(Corporate Seal)

By_____

APPROVED THIS_____DAY OF _____, 19__.

_____
Surety

_____
Commissioner of Securities

By_____

*NOTE - ACKNOWLEDGMENT REQUIREMENTS ON REVERSE SIDE HEREOF.

(ACKNOWLEDGMENT OF INDIVIDUAL)

STATE OF_____)
)ss
COUNTY OF_____)

On this_____, 19__, before me personally appeared_____, to me known to be the person described in and who executed the foregoing instrument, as Principal, and acknowledged to me that he executed the same as his free act and deed.

(NOTARIAL SEAL)

_____
Notary Public,_____
County,_____
My commission expires_____
_____

- - - -

(ACKNOWLEDGMENT OF PARTNERSHIP)

STATE OF_____)
)ss
COUNTY OF_____)

On this_____day of_____, 19__, before me personally appeared_____, to me known to be a member of the firm who executed the foregoing instrument, and he duly acknowledged to me that he executed the same as and for the act and deed of said firm.

(NOTARIAL SEAL)

_____
Notary Public,_____
County,_____
My commission expires_____
_____

- - - -

(ACKNOWLEDGMENT OF CORPORATION)

STATE OF_____)
)ss
COUNTY OF_____)

On this_____day of_____, 19__, before me personally came_____and says that he is the_____ of_____, Principal heretofore named; that he executed the instrument for and in its behalf, by authority of its Board of Directors, and affixed its seal thereto.

(NOTARIAL SEAL)

_____
Notary Public,_____
County,_____
My commission expires_____
_____

Form 111

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
SECURITIES AND REAL ESTATE DIVISION
5th Floor Metro Square
St. Paul, Minnesota 55101

[SECURITIES AGENT BOND] No. _____

KNOW ALL MEN BY THESE PRESENTS, that _____ (Securities agent or applicant) of _____ Minnesota, as principal, and _____ of _____ a corporation duly organized and existing under the laws of the State of _____ and authorized to do business in the State of Minnesota, as surety, hereby are jointly and severally held and firmly bound to the State of Minnesota, in the sum of $5,000 as Agent for Broker-Dealer) or ($5,000 as Agent for Issuer) for the use and benefit of the public including persons injured or suffering financial loss by reason of the failure of Principal to perform or satisfy the obligations and conditions hereinafter specified, for the payment of which, well and truly to be made, we bind ourselves, and each of use, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THE ABOVE OBLIGATION ARE SUCH THAT:

WHEREAS, the said Principal is licensed, or has made or is about to make application to be licensed, as a securities agent pursuant to the provisions of Minn. Stat., Ch. 80A as amended, and

WHEREAS, Principal as such agent is required to file and maintain in effect a surety bond in accordance with the provisions of said law, as a condition for issuance of such securities agent license.

NOW, THEREFORE, if the said Principal shall faithfully observe all provisions of the laws of the State of Minnesota relative to the sale of securities, including the provisions of Minn. Stat., Ch. 80A as amended, and shall faithfully perform and pay all obligations devolving upon said Principal by virtue of his agency and the laws relative to the sale of securities, and shall promptly pay all claims for damages for which said Principal may be or become liable through fraud, deceit, misrepresentation, or otherwise arising out of or in any way connected with any misfeasance or malfeasance of Principal as a securities agent or his holding himself out as a securities agent, then and in the event, the foregoing obligations shall be void; otherwise to remain in full force and effect.

This bond shall be effective and run concurrently with the one year period of the securities agent license issued or to be issued to said Principal, from the date said license is granted, except that the liability upon the bond shall continue notwithstanding said expiration of the period of the bond, for or arising out of any and all acts of the said Principal during said stated period of the bond. The total liability of the surety hereunder shall in no event exceed the sum of _____ Dollars (_____).

No suit may be maintained to enforce any liability on the bond unless brought within three years after the sale or other act upon which it is based.

Signed this _____ day of _____, 19__.

Signed, Sealed and
Delivered in the Presence of:

(as to Principal)

_____ _____
Principal

_____ _____(Seal)
Surety

(as to Surety)

_____ By _____
Attorney in Fact

_____

Acknowledgment of Principal

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

On this _____ day of _____, 19__, personally came _____ to me well known to be the identical person described in and who executed the foregoing instrument and he/she acknowledged the same to be his/her own free and deed.

_____
Notary Public

(SEAL)

(ATTACH ACKNOWLEDGMENT OF OFFICER OF SURETY)

Countersigned by Minnesota Resident Agent _____

Form 172 Page 1 of 3

[BOND FOR INVESTMENT ADVISER]

KNOW ALL MEN BY THESE PRESENTS, That we,_____
_____, as Principal, and_____
a_____
qualified and authorized to do business in the State of Minnesota, as Surety, are held and firmly bound unto the STATE OF MINNESOTA for the use and benefit of any interested person, in the sum of $25,000.00, lawful money of the United States of America, to be paid to the State of Minnesota for the use and benefit aforesaid, for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That Whereas the above named Principal has made application to the State of Minnesota, Department of Commerce, Securities and Real Estate Division, for licensing as an Investment Adviser within the meaning of the Minnesota Securities Act and is required to furnish a bond in the sum above named, conditioned as herein set forth:

NOW, THEREFORE, If the Principal, their agents and employees, shall strictly, honestly and faithfully comply with the provisions of the aforementioned Minnesota Securities Act, and shall pay all damages suffered by any person by reason of the violation of any of the provisions of the Act, or Acts amendatory thereof and supplementary thereto, now or hereafter enacted, or by reason of any fraud, dishonesty, misrepresentation or concealment of facts materially affecting the value of any securities connected with, or growing out of any transaction contemplated by the provisions of this Act, then this obligation shall be void; otherwise to remain in full force and effect.

THIS BOND shall become effective on the_____, and shall remain in force until the Surety is released from liability by the State of Minnesota, Department of Commerce, Securities and Real Estate Division, or until this bond is cancelled by the Surety. The Surety may cancel this bond and be relieved of further liability hereunder by giving thirty (30) days' written notice to the Principal and to the Department of Commerce, Securities and Real Estate Division of the State of Minnesota.

THIS BOND shall be one continuing obligation, and the liability of the Surety for the aggregate of any and all claims which may arise hereunder shall in no event exceed the amount of the penalty hereof.

No suit may be maintained to enforce any liability on the bond, unless brought within three years after the sale or other act upon which it is based.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____day of_____, 19__.

WITNESS:

_____ _____

_____

ATTEST: _____

_____ By_____

(INDIVIDUAL ACKNOWLEDGMENT)

STATE OF_____)
) ss
COUNTY OF_____)

On this_____day of _____, 19__, before me, a Notary Public within and for said county, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument, as Principal, and acknowledged to me that he executed the same as his free act and deed.

(NOTARIAL SEAL)

_____
Notary Public,_____
County, _____
My Commission Expires_____
_____

(CORPORATE ACKNOWLEDGMENT)

STATE OF_____)
) ss
COUNTY OF_____)

On this_____day of_____, 19__, before me a Notary Public within and for said county, personally appeared, _____ _____, who being first duly sworn, says that he is the_____ _____of_____, Principal herein, and executed the foregoing instrument for and in its behalf, by authority of its Board of Directors; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and further acknowledged said instrument and the execution thereof to be the voluntary act and deed of said corporation.

(NOTARIAL SEAL)

_____
Notary Public,_____
County,_____
My Commission Expires_____
_____

(SURETY ACKNOWLEDGMENT)
(Corporate Officer)

STATE OF_____)
) ss
COUNTY OF_____)

On this_____day of_____, 19__, before me, a Notary Public within and for said county, personally appeared _____, who being first duly sworn, says that he is the_____of_____, Surety herein, a corporation duly organized and existing under laws of the State of_____, and executed the foregoing instrument for and in its behalf, by authority of its Board of Directors; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and further acknowledged said instrument and the execution thereof to be the voluntary act and deed of said corporation.

(NOTARIAL SEAL)

_____

Notary Public, _____

County,_____

My Commission Expires_____

_____

Approved by the Securities Division of the Department of Commerce this_____day of_____, 19__.

By_____

Commissioner of Securities & Real Estate

FORM BD

"APPLICATION FOR BROKER/DEALER'S LICENSE"
[REPEALED, 1981.]

*FORM BD

"UNIFORM APPLICATION FOR REGISTRATION, LICENSE OR MEMBERSHIP AS A BROKER/DEALER OR TO AMEND SUCH AN APPLICATION UNDER THE SECURITIES EXCHANGE ACT OF 1934, OR UNDER THE LAWS OF THE JURISDICTIONS OR UNDER THE CONSTITUTIONS AND RULES OF THE SELF-REGULATORY ORGANIZATIONS ACCEPTING THIS FORM", as referred to at 17 C.F.R. § 249.501 (1980), as amended.

[ADOPTED, 1981.]

* Available from the Securities and Exchange Commission.

FORM U-2

UNIFORM CONSENT TO SERVICE OF PROCESS

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, _____(a corporation organized under the laws of the State of _____) (a partnership) (an individual) (other _____) for the purpose of complying with the laws of the State of _____ relating to either the registration or sale of securities, hereby irrevocably appoints _____, and the successors in such office, its attorney in the State of _____ upon whom may be served any notice, process or pleading in any action or proceeding against it arising out of or in connection with the sale of securities or out of violation of the aforesaid laws of said State; and the undersigned does hereby consent that any such action or proceeding against it may be commenced in any court of competent jurisdiction and proper venue within said State by service of process upon said officer with the same effect as if the undersigned was organized or created under the laws of said State and had lawfully been served with process in said State.

It is requested that a copy of any notice, process or pleading served hereunder be mailed to:

_____
(Name and Address)

_____

Dated: _____, 19___.

_____

(Seal) By _____
Title: _____

By _____
Title: _____

CORPORATE ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) SS.

On this _____ day of _____, 19___, before me _____, the undersigned officer, personally appeared _____ and _____, known personally to me to be the ___ President and ___ Secretary, respectively, of the above named corporation, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained, be signing the name of the corporation by themselves as such officers.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

_____
(Notarial Seal) Notary Public
My commission expires: _____

INDIVIDUAL OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) SS.

On this _____ day of _____, 19___, before me _____, the undersigned officer, personally appeared _____, to me personally known and known to be the same person(s) whose name(s) is(are) signed to the foregoing instrument, and acknowledged the execution thereof for the uses and purposes therein set forth.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

_____
(Notarial Seal) Notary Public
My commission expires: _____

SEC-87

Form 104-54 Page 1 of 2

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
SECURITIES AND REAL ESTATE DIVISION
5th Floor Metro Square
St. Paul, Minnesota 55101

[DIRECTORS RESOLUTION AUTHORIZING CORPORATE APPOINTMENT OF ATTORNEY]

On motion, the following resolution was duly passed and adopted:

WHEREAS, this corporation is organized under the laws of the State of _____, and proposes to make application for Dealer/Broker/Investment Adviser License within the State of Minnesota, and,
(Delete categories not applicable)

WHEREAS, under the Securities Laws of the State of Minnesota, it is necessary to appoint an attorney to receive legal process,

BE IT RESOLVED, that in conformity with the laws of the State of Minnesota, the President and the Secretary of this corporation are hereby authorized and directed to execute and file with the Commissioner of Securities and Real Estate of the State of Minnesota, in the form prescribed by the said Commissioner, the appointment of the Commissioner of Securities and Real Estate of the State of Minnesota, his successor or successors, as its true and lawful attorney upon whom may be served all legal process in any action or proceeding in which this corporation may be a party and which relates to or involves any transaction covered by the Securities Laws of the State of Minnesota. Be it further resolved that this corporation does hereby expressly consent and agree that service on said attorney shall be as valid and binding as if due and personal service had been made on this corporation, and that such appointment shall be and is irrevocable.

I, _____, Secretary of _____
_____, hereby certify that the foregoing is a true and exact copy of a resolution of the board of directors of the _____
which resolution was duly adopted by said board of directors effective on the _____ day of _____, 19__.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said corporation this _____, day of _____, 19__.

(CORPORATE SEAL)

_____
Secretary

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
SECURITIES AND REAL ESTATE DIVISION

[CORPORATE APPOINTMENT OF ATTORNEY FOR SERVICE OF PROCESS]

KNOW ALL MEN BY THESE PRESENTS:

That in compliance with the Laws of the State of Minnesota, _____

_____,

a corporation organized and existing under the laws of _____, does hereby appoint the Commissioner of Securities and Real Estate of the State of Minnesota, his successor or successors, as its true and lawful attorney upon whom may be served all legal process in any action or proceeding in which it may be a party and which relates to or involves any transaction covered by the Securities Laws of the State of Minnesota, and does hereby expressly consent and agree that service upon such attorney shall be as valid and binding as if due and personal service had been made upon it and that such appointment shall be irrevocable.

IN WITNESS WHEREOF, said corporation has caused this instrument to be executed by its president and secretary and its corporate seal to be affixed this _____day of _____, 19__.

_____

(CORPORATE SEAL) By _____
President

And _____
Secretary

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 19__, before me, a notary public in and for said County and State, personally appeared _____

_____and_____, to me known to be the persons described in and who executed the foregoing instrument and who, being by me first duly sworn, did say that they are the president and secretary, respectively, of _____, the corporation described in the foregoing instrument, that the seal affixed to said instrument is the corporate seal of said corporation, that said instrument was executed in behalf of said corporation by authority of its board of directors, and acknowledged said instrument to be the free act and deed of said corporation.

_____

(NOTARIAL SEAL) Notary Public, _____County, _____

My Commission expires _____

FORM U-2A

UNIFORM FORM OF

CORPORATE RESOLUTION

OF

_____
(Name of Corporation)

RESOLVED, that it is desirable and in the best interest of this Corporation that its securities be qualified or registered for sale in various states; that the President or any Vice President and the Secretary or an Assistant Secretary hereby are authorized to determine the states in which appropriate action shall be taken to qualify or register for sale all or such part of the securities of this Corporation as said officers may deem advisable; that said officers are hereby authorized to perform on behalf of this Corporation any and all such acts as they may deem necessary or advisable in order to comply with the applicable laws of any such states, and in connection therewith to execute and file all requisite papers and documents, including, but not limited to, applications, reports, surety bonds, irrevocable consents and appointments of attorneys for service of process; and the execution by such officers of any such paper or document or the doing by them of any act in connection with the foregoing matters shall conclusively establish their authority therefor from this Corporation and the approval and ratification by this Corporation of the papers and documents so executed and the action so taken.

CERTIFICATE

The undersigned hereby certifies that he is the _____ Secretary of _____ , _____, a corporation organized and existing under the laws of the State of _____; that the foregoing is a true and correct copy of a resolution duly adopted at a meeting of the Board of Directors of said corporation held on the _____ day of _____, 19__, at which meeting a quorum was at all times present and acting; that the passage of said resolution was in all respects legal; and that said resolution is in full force and effect.

Dated this _____ day of _____, 19__.

(Copporate Seal)

_____
Secretary

SEC-28

ESCROW AGREEMENT

THIS ESCROW AGREEMENT made and entered into this _____ day of _____, 19__, by and between_____ _____ _____(herein collectively referred to as Depositors); _____ _____, a corporate fiduciary with principal office in _____ (hereinafter called the Escrow Agent); _____ _____ a corporation with principal offices in _____ _____(hereinafter called the Issuer) and the Commissioner of Securities and Real Estate for the State of Minnesota (hereinafter called the Commissioner);

WITNESSETH THAT:

Each of the Depositors is the owner of _____ (description of _____ of the Issuer and each owns the number of units of security) such security listed opposite his name on Annex A, attached hereto and made a part hereof.

The Issuer has applied to the Commissioner for registration of its securities for sale to residents of Minnesota, and as a condition of registration the Depositors, the Escrow Agent and the Issuer agree to be bound by this Agreement and the applicable Rules and Regulations of the Commissioner.

Each of the Depositors has deposited the securities listed opposite his name on Annex A with the Escrow Agent, and the Escrow Agent hereby acknowledges receipt thereof. These securities are herein collectively referred to as "escrowed securities".

THEREFORE, the parties agree as follows:

1. The Escrow Agent agrees to hold the escrowed securities until such time as Escrow Agent shall receive a written release issued by the Commissioner permitting the release from escrow of all or a part of the escrowed securities held under this Agreement. Upon receipt of such release, the Escrow Agent may release to each Depositor all or a part of his escrowed securities in accordance with the order of the Commissioner.

Subject to the above provisions, the term of escrow under this Agreement shall run for a period of _____ years from the date of the Order of Registration, unless at an earlier date the Issuer shall have demonstrated annual net earnings, after taxes and excluding extraordinary items, determined in accordance with generally accepted accounting principles, for any two consecutive years after the date of the Order of Registration, of at least _____ percent on an amount determined by multiplying the total number of outstanding shares of the Issuer, including the escrowed securities, by the average price per share paid by public investors. The existence of the required annual net earnings shall be demonstrated by certification to that effect furnished to the Commissioner by an independent certified public accountant or an authorized officer of the issuer. In addition, the Issuer and each of the Depositors shall furnish the Commissioner a written statement that none of the escrowed securities nor any interests therein have been sold, transferred or otherwise disposed of (except as permitted by paragraph #4) as a condition of the release from escrow.

2. Notwithstanding any provision of paragraph 1, the Commissioner may, in his discretion, terminate the term of escrow with respect to all or any part of the escrowed securities of any Depositor before the expiration of the period of occurrence of the event specified in paragraph 1 and release such securities if he determines that the release of such securities to the Depositor(s) will not be detrimental to the Issuer, the public investors or any other party concerned. At the time of release by the Commissioner of any securities from escrow, the application of this Agreement shall terminate with respect to the securities so released.

3. While it is held in escrow pursuant to this Agreement, no escrowed security nor any interest therein, nor any right or title thereto, may be sold or transferred, by means of transfer of the security separate from the certificate representing it or otherwise, without the prior written release of the Commissioner, except that the release of the Commissioner need not be obtained to transfer escrowed shares by will or the laws of descent and distribution or otherwise by order or process of any Court.

4. Upon receipt of such written release from the Commissioner directing that some or all of the escrowed securities of the Depositor held under this Escrow Agreement be released for the purpose of transfer to another person against concurrent deposit of the securities so transferred, the Escrow Agent may release such securities but only against such deposit under this Agreement of all of the transferred securities. The commissioner shall authorize such transfer of the escrowed securities only upon receipt of a signed statement by the proposed transferee that he has full knowledge of the terms of this Escrow Agreement and that he accepts such securities subject to the conditions of this Escrow Agreement.

5. The Depositors agree that they shall be entitled to receive cash and property dividends with respect to the escrowed securities while such securities are held in escrow pursuant to this agreement to the same extent as other security holders of the same class of security and that said cash or property dividends shall be placed under the terms of this Escrow Agreement.

6. Upon declaration of any dividend in shares of the Issuer or a subsidiary to which the escrowed securities are entitled pursuant to a share dividend or split authorized by a vote of the shareholders, the Depositors and the Escrow Agent shall forthwith enter into a Supplemental Escrow Agreement, covering such share dividend, which Supplemental Escrow Agreement shall incorpoate all the conditions of escrow contained in this Agreement. The shares received as dividend shall be forthwith deposited in escrow with the Escrow Agent pursuant to such Supplemental Escrow Agreement, and the Escrow Agent shall deliver to the Commissioner a receipt for the shares thus escrowed.

7. During the term of escrow, the Depositors shall not be entitled to and hereby waive all rights to participate in any distribution of assets of the Issuer in the event of liquidation, dissolution, or winding up, until the public investors shall have received cash or property in an amount or value equal to the price paid by public investors for securities purchased by such public investors; and thereafter the Depositors shall participate without the public investors until they shall have received cash or other property in an amount or value equal to the price paid by the Depositors for the escrowed securities; and thereafter the public investors and the Depositors shall participate equally according to the terms of their securities. Any Depositor(s) seeking release of all or any part of his escrowed securities pursuant to this paragraph 7 shall furnish the Commissioner a written statement that none of the escrowed securities nor any interests therein have been sold, transferred (except as provided in paragraph 4) or otherwise disposed of, without the consent of the Commissioner, as a condition of the release from escrow.

8. This Escrow Agreement shall not be construed to prohibit any Depositor from participating in any distribution of securities of any corporation other than the Issuer resulting from the sale of assets of the Issuer or a merger or consolidation of the Issuer with or into any other corporation or corporations. In the event of such a transaction, the Escrow Agent should obtain written authorization from the Commissioner prior to the release of the escrowed securities, and, any such distribution payable in securities of any corporation other than the Issuer paid with respect to the escrowed securities shall be delivered to the Escrow Agent and held pursuant to a Supplemental Escrow Agreement prepared and executed as described in paragraph 7, above. In the event of the merger or consolidation of the Issuer with or into any other corporation or corporations, any securities shall be delivered to the Escrow Agent and held pursuant to a Supplemental Escrow Agreement prepared and executed as described in paragraph 6, above.

9. The Escrow Agent may conclusively rely upon and shall be protected in acting upon any statement, certificate, notice request, consent, order or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Escrow Agent shall have no duty or liability to verify any such statement, certificate, notice, request, consent, order or other document and its sole responsibility shall be to act only as expressly set forth in this Escrow Agreement. The Escrow Agent shall be under no obligation to institute or defend any action, suit or proceeding in connection with this Escrow Agreement unless first indemnified to its satisfaction. The Escrow Agent may consult counsel in respect of any question arising under this Escrow Agreement and the Escrow Agent shall not be liable for any action taken or omitted in good faith upon advice of such counsel. All securities held by Escrow Agent pursuant to this Escrow Agreement shall constitute trust property for the purposes for which they are held and the Escrow Agent shall not be liable for any interest thereon.

10. The Escrow Agent shall be entitled to receive from the Company reasonable compensation for its services as contemplated herein. In the event that the Escrow Agent shall render any additional service not provided for herein or that any controversy shall arise hereunder or that the Escrow Agent shall be made a party or shall intervene in any action, suit or proceeding pertaining to this Escrow Agreement, it shall be entitled to receive reasonable compensation from the Company for such additional services.

11. This Escrow Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors and assigns.

12. This Escrow Agreement shall terminate in its entirety when all escrowed securities covered hereby and by any Escrow Agreements supplemental hereto have been released as provided in paragraph 1.

IN WITNESS WHEREOF, the parties have executed this Escrow Agreement on the date first above written.

Escrow Agent:

By_____
Its_____

and_____
Its_____

(Corporate Seal)

Depositors:

_____

_____

_____

_____

Issuer:

By_____
Its_____

and_____
Its_____

Accepted for filing:

_____
Commissioner of Securities & Real Estate

IMPOUNDMENT AGREEMENT

THIS IMPOUNDMENT AGREEMENT made and entered into this _____ day of _____. 19___, by and between _____

_____

(hereinafter called the Issuer),_____

_____

(a national or state) banking association or trust company with principal offices in _____(hereinafter called the Impoundment Agent), and _____whose address is_____(hereinafter called the Underwriter);

WITNESS THAT:

WHEREAS, Issuer has applied to the Commissioner of Securities & Real Estate for the State of Minnesota (hereinafter called the Commissioner) for registration of_____for
(Description of Securities)
sale to the residents of the State of Minnesota; and

WHEREAS, as a condition of registration of such offering under the Securities Laws of the State of Minnesota the Commissioner requires that the Issuer provide for the impoundment of the proceeds to be received from such offering of securities; and

WHEREAS, the Issuer, the Impoundment Agent and the Underwriter desire to enter into an agreement with respect to the said impoundment of proceeds;

NOW, THEREFORE, in consideration of the premises and agreements set forth herein, the parties hereto agree as follows:

1. PROCEEDS TO BE PLACED IN ESCROW:

All proceeds received from the sale of the securities subject to this Impoundment Agreement on or after the date hereof shall be paid to the Impoundment Agent within two business days from the date of sale and deposited by Impoundment Agent in an escrow account. During the term of this Impoundment Agreement, the Issuer and Underwriter shall cause all checks received by them in payment for such securities to be either payable to the Impoundment Agent or endorsed forthwith to the Impoundment Agent.

2. IDENTITY OF SUBSCRIBERS:

The Issuer and Underwriter shall cause to be delivered to the Impoundment Agent two signed counterparts of each Subscription Agreement which shall contain, among other things, the name and address of each subscriber thereto, the date and amount subscribed, and the amount paid, or, in the alternative, shall furnish to the Impoundment Agent with each deposit of funds in the impoundment a list of the persons who have subscribed the money, showing the name, address, date and amount of subscription and amount of money paid. All proceeds so deposited shall remain the property of the subscriber and shall not be subject to any liens or charges by the Impoundment Agent or Underwriter, or judgments or creditors' claims against the Issuer until released to the Issuer as hereinafter provided.

3. DISBURSEMENT OF FUNDS:

Upon the receipt by Impoundment Agent of amounts paid in of not less than $_____, the Impoundment Agent shall forthwith notify the Commissioner in writing of the impoundment of such amounts. Upon receipt by Impoundment Agent of written authorization from the Commissioner, then said Impoundment Agent, on demand of the Issuer, shall pay over to the Issuer all impounded funds. If the specified minimum amount of proceeds have not been impounded during the term of impoundment, then, within three business days after the last day of the term of impoundment, the Impoundment Agent shall notify the Commissioner in writing that the conditions of impoundment have not been satisfied, and shall within a reasonable time, but in no event not more than thirty (30) days after the last day of the term of impoundment, refund to each subscriber at the address appearing on the Subscription Agreement or list of subscribers, or at such other address as shall be furnished the Impoundment Agent by the subscriber in writing, all sums paid by him pursuant to his subscription, and shall then notify the Commissioner in writing of such refund.

4. TERM OF IMPOUNDMENT:

This impoundment shall terminate on the _____ day following the effective date of the registration of the Issuer's securities in the State of Minnesota, unless extended by the consent in writing of the parties hereto and all subscribers to the securities subscribed to date and the Commissioner. Upon termination hereof, whether after extension or otherwise, the Impoundment Agent shall disburse the funds in the impoundment account in the manner and upon the terms directed in paragraph three hereof. The Issuer may abandon the sale of securities anytime prior to the date above. Upon the receipt of a copy of the Resolution authorizing said abandonment, duly attested to by the Secretary of the Issuer, accompanied by the written consent of the Commissioner, Impoundment Agent shall be authorized to refund the monies received from the subscribers.

5. TERMINATION BY REVOCATION OR SUSPENSION:

If at anytime prior to the termination under paragraph four of this impoundment, said Impoundment Agent is advised by the Commissioner that the registration to sell securities has been revoked or suspended, said Impoundment Agent shall thereupon return all funds to the respective subscribers.

6. CONSENT OF COMMISSIONER TO RELEASE FUNDS:

No funds shall be released to the Issuer hereunder except upon the express written authorization of the Commissioner. If the Commissioner finds that any conditions of this Agreement have not been satisfied, or that any provisions of the Minnesota Securities laws or regulations have not been complied with, then he may withhold such authorization for release of funds by the Impoundment Agent to the Issuer and may direct the Impoundment Agent to return the funds to the subscribers. In making his determination hereunder, the Commissioner may require from the Issuer a statement of all expenses and/or all amounts paid into the escrow, certified by an independent certified public accountant or an officer of the Issuer and any further financial or other information as the Commissioner may deem appropriate or helpful in making such determination.

7. INSPECTION OF RECORDS:

The Commissioner may, at any time, inspect the records of the Impoundment Agent, insofar as they relate to this Impoundment Agreement, for the purpose of determining compliance with and conformance to the provisions of this Impoundment Agreement.

8. DUTY AND LIABILITY OF THE IMPOUNDMENT AGENT:

The sole duty of the Impoundment Agent, other than as herein specified, shall be to receive said funds and hold them subject to release, in accordance with the written instructions of the Commissioner, and the Impoundment Agent shall be under no duty to determine whether the Issuer is complying with requirements of the Commissioner in tendering to the Impoundment Agent said proceeds of the sale of said securities.

The Impoundment Agent may conclusively rely upon and shall be protected in acting upon any statement, certificate, notice, request, consent, order or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Impoundment Agent shall have no duty or liability to verify any such statement, certificate, notice, request, consent, order or other document and its sole responsibility shall be to act only as expressly set forth in this Impoundment Agreement. The Impoundment Agent shall be under no obligation to institute or defend any action, suit or proceeding in connection with this Impoundment Agreement unless first indemnified to its satisfaction. The Impoundment Agent may consult counsel in respect of any question arising under this Impoundment Agreement and the Impoundment Agent shall not be liable

for any action taken or omitted in good faith upon advice of such counsel. All funds held by Impoundment Agent pursuant to this Impoundment Agreement shall constitute trust property for the purposes for which they are held and the Impoundment Agent shall not be liable for any interest thereon.

9. IMPOUNDMENT AGENT'S FEE:

The Impoundment Agent shall be entitled to reasonable compensation for its services. The fee agreed upon for services rendered hereunder is intended as full compensation for the Impoundment Agent's services as contemplated by this Agreement: provided, however, in the event that the conditions of this Impoundment Agreement are not fulfilled, or the Impoundment Agent renders any material service not contemplated in this Agreement, or there is any assignment of interest in the subject matter of this Impoundment Agreement, or any material modification hereof, or if any material controversy arises hereunder, or the Impoundment Agent is made a party to or justifiably intervenes in any litigation pertaining to this Impoundment Agreement, or the subject matter hereof, the Impoundment Agent shall be reasonably compensated for such extraordinary services and reimbursed for all costs and expenses, including reasonable attorney's fees, occasioned by any delay, controversy, litigation or event, and the same may be recoverable from the Issuer only.

10. BINDING AGREEMENT AND SUBSTITUTION OF IMPOUNDMENT AGENT:

The terms and conditions of this Agreement shall be binding on the heirs, executors and assigns, creditors or transferees, or successors in interest, whether by operation of law or otherwise, of the parties hereto. If, for any reason, the Impoundment Agent named herein should be unable or unwilling to continue as such Impoundment Agent, then the other parties to this Agreement may substitute, with the consent of the Commissioner, another Impoundment Agent. Any apportionment of the fees provided for in paragraph nine will be subject to agreement of the parties.

11. ISSUANCE OF CERTIFICATES:

Until the terms of this Agreement have been met and the funds hereunder released to the Issuer, the Issuer may not issue any certificates or other evidences of securities, except subscription agreements.

IN WITNESS WHEREOF, the parties hereto have executed this Impoundment Agreement on the date first above written.

Issuer

By_____

Impoundment Agent

By_____
Its _____
(an authorized signature)

Underwriter or Agent

By_____
Its_____
(an authorized signature)

Accepted for filing:

_____
Commissioner of Securities & Real Estate

FORM 101

"APPLICATION FOR INVESTMENT ADVISER'S LICENSE."
[REPEALED, 1981.]

*FORM ADV

APPLICATION FOR REGISTRATION AS AN INVESTMENT ADVISER OR TO AMEND SUCH AN APPLICATION UNDER THE INVESTMENT ADVISERS ACT OF 1940", as referred to at 17 C.F.R. § 279.1 (1980), as amended.

[ADOPTED, 1981.]

* Available from the Securities and Exchange Commission.

[APPLICATION TO REGISTER SECURITIES]

(Form U-1 will be acceptable in lieu of this form.)

Application to _____ of the State of _____

pursuant to Section _____ of the _____

1. Name and address of Issuer and principal office in this state:

2. Name, address and telephone number of correspondent to whom notices and communications regarding this application may be sent:

3. Name and address of applicant:

4. Registration or acceptance for filing is sought for the following described securities in the amounts indicated:

Description of Securities	Offering Price or Proposed Offering Price	Total Offering No. of Shares or Units	Amt.	Offering in This State No. of Shares or Units	Amt.
			$		$
Totals			$		$

Indicate the maximum commission to be charged: _____%

5. Amount of filing and examination fees which are enclosed: $_____

6. A Registration Statement was filed with the Securities and Exchange Commission on _____ (Date) and (became)(will become)effective on _____ (Date)

7. (a) List the states in which it is proposed to offer the securities for sale to the public.

(b) List the states, if any, in which the securities are eligible for sale to the public.

(c) List the states, if any, which have refused, by order or otherwise, to authorize sale of the securities to the public, or have revoked or suspended the right to sell the securities, or in which an application has been withdrawn.

DO NOT WRITE BELOW THIS LINE

8. Submitted herewith as a part of this application are the following documents (documents on file may be incorporated by reference):

(a) One copy of the Registration Statement and two copies of Prospectus in the latest form.

(b) Underwriting Agreement, Agreement among Underwriters, and Selected Dealers Agreement.

(c) Indenture.

(d) Issuer's charter or articles of incorporation as amended to date.

(e) Issuer's by-laws as amended to date.

(f) Signed copy of opinion of counsel filed with Registration Statement.

(g) Manually signed consent of accountant.

(h) Consent to service of process accompanied by appropriate corporate resolution.

(i) One copy of all advertising matter to be used in connection with the offering.

(j) Others (list each):

9. The applicant hereby applies for registration or acceptance for filing of the above registered securities under the law cited above and in consideration thereof agrees so long as the registration remains in effect that it will:

(a) Advise the above named state authority of any change prior to registration in this state in any of the information contained herein or in any of the documents submitted with or as a part of this application.

(b) File with the above named state authority within two business days after filing with the Securities and Exchange Commission (i) any amendments other than delaying amendments to the federal registration statement, designating the changed, revised or added material or information by underlying the same; and (ii) the final propsectus, or any further amendments or supplements thereto.

(c) Notify the above named state authority within two business days (i) upon the receipt of any stop order, denial, order to show cause, suspension or revocation order, injunction or restraining order, or similar order entered or issued by any state or other regulatory authority or by any court, concerning the securities covered by this application or other securities of the issuer currently being offered to the public; and (ii) upon the receipt of any notice of effectiveness of said registration by the Securities and Exchange Commission if applicable.

(d) Notify the above named state authority at least two business days prior to the effectiveness of any registration with the Securities and Exchange Commission of (i) any request by the issuer or applicant to any state or regulatory authority for permission to withdraw any application to register the securities described herein; and (ii) a list of all states in which applications have been filed where the issuer or applicant has received notice from the state authority that the application does not comply with state requirements and cannot or does not intend to comply with such requirements.

(e) Furnish promptly all such additional information and documents in respect to the issuer or the securities covered by this application as may be requested by the above named state authority prior to registration or acceptance for filing.

Date: _____

_____
Name of Applicant

By _____
(Name & Title)

STATE OF _____)
COUNTY OF _____)

The undersigned, _____, being first duly sworn, deposes and says:

That he has executed the foregoing application for and on behalf of the applicant named therein; that he is _____ of such applicant and is fully authorized to execute and file such application; that he is familiar with application; and that to the best of his knowledge, information and belief the statements made in such application are true and documents submitted therewith are true copies of the originals thereof.

_____
Name

Subscribed and sworn to before me
this _____day of _____, 19__

_____
NOTARY PUBLIC

In and for the County of _____
State of _____
My Commission Expires: _____
(Notarial Seal)

(Form 102A (Rev. 7/1/75.) Page 1 of 2

SECURITIES & REAL ESTATE DIVISION, DEPARTMENT OF COMMERCE
STATE OF MINNESOTA, ST. PAUL, MINNESOTA

[ANNUAL REPORT]

(Pursuant to Minn. Stat. Section 80A.12, Subdivision 10)

ANNUAL REPORT FEE $100

(1) For the fiscal year _____ Date of Report _____

(2a) _____
(Exact name of issuer)

(2b) _____
(Exact name of security registered)

(3) _____ _____
(State or other jurisdiction of incorporation or organization) Minnesota File Number

(4) _____ _____
(Address of principal executive offices Zip Code

(5) Issuer's telephone number, including area code _____

(6a) Number of shares or other units outstanding at end of last fiscal year _____

b) Number of shares or other units outstanding at the end of this fiscal year _____

c) Explanation of increase or decrease in outstanding shares or units during this fiscal year:

d) Date issued	Number of shares or units	Consideration received	Exemption claimed (Minnesota Statute)

e) Explanation of other securities of the issuer which were issued during this fiscal year _____

f) Type of Security	Date Issued	Consideration Received	Exemption claimed (Minnesota Statute)

g) The persons or class of persons to whom any securities were sold:

h) The name of any broker-dealer or agent participating in any sales and the amount of commissions or other remuneration paid, if applicable:

(7) A description of all securities of the registrant repurchased or otherwise reacquired by the registrant within the fiscal year covered by the report:

(8) The names and addresses of all officers and directors, or persons occupying similar status or performing similar functions:

9) A description of the business of the registrant, including its products and services, competitive conditions, sources of supply, the number and general function of employees, its market area, and any other factors which materially affect the business or operations of the registration:

(10) A summary of operations for the fiscal year covered by the report including, without limitation, gross revenues, cost of goods sold or services provided, net income, debt service and earnings per share of each class of equity security outstanding, together with a comparison of similar figures for the fiscal year immediately preceding the fiscal year covered by the report. The comparison required by this paragraph may be presented in columnar form:

(11) A brief description of the location and general character of plants, mines and other materially important physical properties of the registrant:

(12) A description of any material legal proceedings pending against the company:

(13) A description of all parents and subsidiaries of the registrant, and an explanation of the manner in which each is affiliated with the registrant:

(14) The approximate number of holders of record of each outstanding class of equity securities:

(15) A list in tabular form of the name and address of each officer, and any person known to the registrant who beneficially owns 10 percent or more of any class of outstanding voting securities of the registrant, showing for each the title of the class owned, the type of ownership, the amount owned and the percent of class owned:

(16) A list in tabular form of the amount of remuneration received and the capacity in which such remuneration was received for each officer and director (in the case of officers, only those officers who received in excess of $25,000 during this fiscal year need be listed):

(17) A list and description of the number and exercise price of all options outstanding which are beneficially owned by any officer or director:

(18) A description of any transactions in the last fiscal year or any currently pending transaction to which the issuer or any of its subsidiaries was a party and in which any director, officer, ten percent shareholder or any affiliate had or will have a direct or indirect material interest, and a description of the nature of such interest.

(19) Financial statements certified by an independent accountant complying with the requirements of SDiv. 2133 of these rules.

_____

Authorized Signature

_____

Position

STATEMENT OF ISSUER

M.S. 80A.15 Subd. 2(h)
$50 FEE REQUIRED

This form is to be prepared and filed pursuant to Minnesota Statutes, 1980, Section 80A.15, Subd. 2(h), and mailed to:

State of Minnesota
Department of Commerce
Securities and Real Estate Division
Fifth Floor
Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101

1. State the name and address of the issuer, and date and state of organization.

2. If the issuer is a foreign corporation, state the name and address of the agent within Minnesota upon whom service of process may be obtained.

3. State the name, address, telephone and position held by the person to whom inquiries pertaining to information herein or notice of objection by the Commissioner of Securities and Real Estate should be directed.

4. State the nature of the business enterprise or enterprises engaged in by the issuer.

5. State whether the issuer of these securities has, within the past five years, made application to register any of its securities with the Minnesota Securities and Real Estate Division. _____ Yes _____ No

6. State the aggregate dollar amount, number of units, price per units, and set forth a description of the securities to be sold. Set forth the minimum dollar amount which may be purchased by any individual or corporation.

7. State whether commissions will or will not be paid. If commissions are to be paid, indicate the amount of such commissions in dollar amount and as a percentage of the offering price, and identify the persons to whom they will be paid.

8. State the date on which it is proposed to commence the sale of these securities.

9. State the date by which it is proposed to terminate the offering.

10. The issuer proposes to make sales to not more than _____ persons.

11. With reference to the sales of securities made within a twelve-month period preceding the proposed date of the distribution described herein, state the number of sales, the dollar amount paid, the number of shares issued, and the dates of said sales. If exemption for the sale of said securities is claimed, designate the exemption relied upon with specific reference to Minnesota statutes.

12. The issuer, through its authorized agent whose signature appears below, certifies that:

    (a) The information contained in this Statement of Issuer and the Exhibits appended hereto are accurate and complete to the best knowledge and belief of the undersigned.

(b) The issuer represents that it will sell the securities only to buyers who it reasonably believes are purchasing for investment only. In support of this representation, the issuer will require each purchaser to sign a copy of an Investment Letter or other instrument disclosing an investment intent in the form of Exhibit A hereto. The issuer will maintain copies of such letter of instrument in its files and will make the same available to the Securities and Real Estate Division for inspection upon a reasonable request, for a period of three (3) years from the date of the last sale made pursuant to this filing. The issuer will cause all certificates issued pursuant to this filing to bear the following legend: "The securities represented by this certificate have not been registered under Chapter 80A of the Minnesota Securities Laws and may not be sold, transferred or otherwise disposed of except pursuant to registration, or an exemption therefrom"; or will cause to be placed upon each of said certificates language equivalent thereto.

13. Attach the following Exhibits to this form:

Exhibit A - Investment Letter.
Exhibit B - A copy of any offering circular of other offering documents (such as financial or other business information) intended to be distributed to all offerees.
Exhibit C - A description of the present capitalization of the issuer and, (1) if a corporation, the names of all officers and all shareholders owning 5% or more of the outstanding common stock, or: (2) if a limited partnership, the name of the general partner and, if a corporate general partner, the names of its officers and all shareholders owning 5% or more of its outstanding common stock.
Exhibit D - A detailed description of the use to which the proceeds of the offering will be applied.
Exhibit E - If a non-resident, a statement that it consents to service of process in Minnesota and designates an agent for the receipt of such service.
Exhibit F - The opinion of issuer's counsel that the issuer is validly organized and authorized to issue the securities to be sold.

THE ISSUER CONSENTS TO PERMIT INSPECTION OF ITS BOOKS, RECORDS, ACCOUNTS, AND FILES BY THE COMMISSIONER OF SECURITIES OF HIS DESIGNEE WITH REFERENCE TO THE SALE OF SECURITIES DESCRIBED HEREIN, AND AGREES TO PROVIDE THE COMMISSIONER WITH SUCH ADDITIONAL INFORMATION WITH RESPECT TO THE SALE OF THESE SECURITIES AS HE MAY REQUIRE FOR A PERIOD OF THREE YEARS FROM THE DATE OF THE LAST SALE MADE PURSUANT TO THIS FILING. THE ISSUER RECOGNIZES THAT THE COMMISSIONER DOES NOT HEREBY WAIVE HIS STATUTORY AUTHORITY TO REQUIRE THE AFORESAID INFORMATION AT ANY TIME BY SUBPOENA OR OTHERWISE.

The undersigned certifies that he has read the contents of the above form and the Exhibits appended hereto and certifies that he has personal knowledge of the contents hereof and knows the responses set forth are true and accurate.

Dated this _____ day of _____ _____
ISSUER
BY ITS

Subscribed and sworn to before me
this _____ day of _____

Minnesota Securities Rules prohibit the use of advertising and other methods of mass communication in the distribution of securities under this exemption.

2241-2260

4 MCAR S 1.3200 Authority, scope and purpose. These rules are promulgated pursuant to Minnesota Statutes, section 62E.09, clause (i) relating to qualified comprehensive health insurance plans and the operations of the Minnesota Comprehensive Health Association. These rules and all future changes herein apply to all insurers, (including non-profit health service plan corporations), self-insurers, fraternals, health maintenance organizations and other organizations which are at the time of adoption of these rules, or at any time in the future, licensed or authorized to do business in or otherwise doing business in this state and thereby subject to the provisions of the Minnesota Comprehensive Health Insurance Act of 1976, as amended. These rules are promulgated to carry out the act, as amended, and to facilitate its full and uniform implementation, enforcement and application to all persons affected thereby.

2241-2260

4 MCAR S 1.3201 Definitions. All terms used herein which are defined in Minnesota Statutes, chapter 62E shall have the meanings attributed to them therein. For the purpose of Minnesota Statutes, chapter 62E and these rules, the terms defined herein shall have the meanings given to them.

A. Accident only coverage. "Accident only coverage" means a policy designed to provide coverage solely upon the occurrence of an accidental injury or death.

B. Act. "Act" means Minnesota Statutes, sections 62E.01 to 62E.17, as amended, which shall be cited as the Minnesota Comprehensive Health Insurance Act of 1976.

C. Actuarial equivalent. "Actuarial equivalent" or "an actuarially equivalent benefit" means a benefit, the expected value of which when substituted for another benefit or benefits in a plan of health coverage will be the same as the benefit or benefits for which it was substituted, and which will result in the plan of health coverage after substitution of the actuarially equivalent benefit, being the actuarial equivalence of the original plan of health coverage. "Actuarial equivalence" shall be recognized for two plans where, employing the same set of assumptions for the same population, the expected value of benefits provided by the plans is equal. Expected value of benefits shall be measured by the probability of the claim for each benefit multiplied by the average expected amount of each of those benefits.

D. Administrative expenses of the pool. "Administrative expenses of the pool" means the actual operating and administrative expenses of the association incurred directly in the operation of the reinsurance plan including fees to a reinsurance administrator.

E. Association. "Association" means the Minnesota Comprehensive Health Association.

F. Board. "Board" means the board of directors of the association.

G. Calendar year. "Calendar year" means a 12-month period from January 1, to and including December 31.

H. Certificate of eligibility. "Certificate of eligibility" or "certificate of eligibility and enrollment form" means the document entitled "certificate of eligibility and enrollment form" or any other document which is used to apply for coverage under the state plan.

I. Claims expenses. "Claims expenses" or "payment of benefits" means all payments to covered persons or providers including payments for hospital, surgical and medical care, and reasonable estimates (as determined by the association and approved by the commissioner) of the incurred but not reported claims of the state plan.

J. Close relative. "Close relative" means the insured person's spouse, brother, sister, parent or child.

K. Commercial reinsurance. "Commercial reinsurance" or "excess of loss reinsurance" means reinsurance arranged by the association under which the pool pays premiums to a reinsurer which assumes part of the risk of the reinsurance plan.

L. Covered expenses. "Covered expenses" means the usual and customary charges for the services and articles listed in Minnesota Statutes, section 62E.06, or the actuarial equivalence thereof, when prescribed for a covered person by a physician and when such expenses are incurred during a period in which the state plan policy or contract is in effect.

M. Covered person. "Covered person" means the insured person or an insured dependent.

N. Dental care. "Dental care" means those services which a person licensed to practice dentistry may provide as defined in Minnesota Statutes, section 150A.05, subdivision 1.

O. Disabled child. "Disabled child" or a "dependent child of any age who is disabled" means a child, married or unmarried, who is and has been continuously incapable of self-sustaining employment by reason of mental retardation or physical handicap and is financially dependent upon the insured, provided proof of such incapacity and dependency is furnished to the insurer or to the association within 31 days of the child's attainment of the limiting age and subsequently as may be required by the insurer or the association but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

P. Employee welfare benefit plan. "Employee welfare benefit plan" means any plan, fund, or program through which an employer provides, directly or indirectly, accident and health benefits

to its employees through a trust, through the purchase of insurance, or through the provision of benefits for medical, surgical or hospital care.

Q. Financially dependent. A person shall be considered "financially dependent" if that person is chiefly dependent upon the insured person for support and maintenance.

R. Free standing ambulatory surgical center. "Free standing ambulatory surgical center" or "free standing ambulatory medical center" means a surgical or medical center approved as such by the state of Minnesota.

S. Home health agency. "Home health agency" means a public or private agency that specializes in giving nursing service and other therapeutic services in the insured person's home and is approved as such by the state of Minnesota.

T. Hospital. "Hospital" means:

1. An institution which is operated pursuant to law and which is primarily engaged in providing on an inpatient basis for the medical care and treatment of sick and injured persons through medical, diagnostic, and surgical facilities, under the supervision of a staff of physicians and with 24 hour a day nursing service, or

2. An institution not meeting all the requirements of (1), but which is accredited as a hospital by the Joint Commission on Accreditation of Hospitals.

3. In no event shall the term "hospital" include a nursing home or any institution or part thereof which is used principally as a convalescent facility, rest facility, nursing facility, or facility for the aged.

U. Hospital indemnity coverage. "Hospital indemnity coverage" means coverage which provides a fixed dollar benefit on the occurrence of the condition precedent that the covered person was confined in a hospital.

V. Illness. "Illness" means disease, injury, or a condition involving bodily or mental disorder of any kind, and including pregnancy.

W. Independent contractor. "Independent contractor" means a person who exercises an independent employment and contracts to do certain work without being subject to the control of his employer except as to the results of the work.

X. Individual insured. "Individual insured" means the covered employee or surviving spouse or surviving dependent of a covered employee as those terms are used in Minnesota Statutes, section 62A.17, subdivision 6.

Y. Insured dependent. "Insured dependent" means an eligible

dependent originally named in the policy or contract schedule or otherwise insured subsequent to the effective date of the policy or contract.

Z. Insured person. "Insured person" means the person named in the policy or contract schedule.

AA. Interim reinsurance assessment. "Interim reinsurance assessment" means an assessment at any time other than at the end of a calendar year (or other fiscal year end as determined by the association) of participating members when pooling payments and payments by reinsurers for the year are not sufficient to fund paid and estimated obligations of the pool and administrative expenses of the pool.

BB. Licensed and tested insurance agent or solicitor. "Licensed and tested insurance agent or solicitor" means an agent or solicitor as defined in Minnesota Statutes, section 60A.02, subdivision 7 or 8, and licensed by the commissioner under Minnesota Statutes, section 60A.17 to act as an agent or solicitor for accident and health insurance as defined in Minnesota Statutes, section 60A.06, subdivision 1, clause (5)(a).

CC. Losses. "Losses" means all claims expenses.

DD. Major medical expenses. "Major medical expenses" as used in Minnesota Statutes, section 62E.04 means the covered expenses for services and articles listed in Minnesota Statutes, section 62E.06, subdivision 1, or the actuarial equivalence thereof, provided that the maximum lifetime benefit limit shall not be less than $250,000.

EE. Net gains. "Net gains" means the excess of premiums or contract charges over claims expenses, after the writing carrier's expenses and agent referral fees (not to exceed 12-1/2 percent of premiums or contract charges) have been paid as provided in 4 MCAR S 1.3233 B.4.

FF. Non-qualified policy. "A non-qualified policy" or "unqualified policy" or "unqualified plan" means a policy, contract, or plan which has not been certified by the commissioner as qualified pursuant to the terms of the act.

GG. Nursing home. "Nursing home" means an institution meeting the following requirements: (1) it is operated pursuant to law and is primarily engaged in providing the following services for persons convalescing from illness: room, board, and 24 hour a day nursing service by one or more professional nurses and such other nursing personnel as are needed to provide adequate medical care; (2) it provides such services under the full-time supervision of a proprietor or employee who is a physician or a registered nurse; and (3) it maintains adequate medical records and has available the services of a physician under an established agreement if not supervised by a physician.

HH. Operating and administrative expenses of the association.

"Operating and administrative expenses of the association" means expenditures reasonably necessary to the operation and administration of the association including but not limited to rents, stationery, telegraph and telephone charges, salaries and expenses of office employees, investigators or adjusters, and legal expenses, as well as expenses of directors of the board of the association relating to the conduct of or attendance at meetings. The operating and administrative expenses of the association do not include the operating and administrative expenses of the writing carrier.

II. Out-of-pocket expenses. "Out-of-pocket expenses" means any cost or charge in a calendar year for a health service or article which is included in the list of covered services and articles under the qualified plan, qualified medicare supplement plan, policy or contract of major medical coverage, or state plan policy or contract under which the person is a covered person, and which is not paid or payable if claim were made under any plan of health coverage, medicare, or other governmental program.

JJ. Participating members. "Participating members" means insurer and fraternal members of the association which elect to reinsure risks of issuing certain coverages required under the act through the association under its reinsurance plan.

KK. Per diem policies. "Designed solely to provide payments on a per diem, fixed indemnity or non-expense incurred basis" means policies which provide benefits upon the occurrence or existence of a condition precedent, without reference to expenses incurred or services provided, for hospital, surgical or medical care.

LL. Policies or contracts of accident and health insurance. "Policies or contracts of accident and health insurance" means accident and health insurance policies as defined by Minnesota Statutes, section 62E.02, subdivision 11.

MM. Pooling payment. "Pooling payment" means the amount each participating member pays the association or its reinsurance administrator during a given period of time as determined by the association or its reinsurance administrator based on pooling rates and volume of policies and contracts reinsured by the participating member in each category.

NN. Pooling rates. "Pooling rates" means unit rates approved by the association and used as the basis for pooling payments.

OO. Pre-existing condition. "Pre-existing condition" means an injury, illness or other physical or mental condition of a covered person which existed prior to the issuance of the covered person's policy or contract.

PP. Pre-existing conditions limitation. "Pre-existing conditions limitation" means a limitation excluding coverage for

an injury, illness or other physical or mental condition of an applicant which existed prior to the issuance of the applicant's policy or contract.

QQ. Professional services. "Professional services" means only services rendered by a physician or at the physician's direction by a private duty, licensed, registered nurse or an allied health professional. Professional services shall not include a service rendered by a close relative.

RR. Reasonable benefits in relation to the cost of covered services. "Reasonable benefits in relation to the cost of covered services" means reasonable benefits in relation to premium charged for coverage under a policy as determined by the minimum anticipated loss ratio requirement of Minnesota Statutes, section 62A.02, subdivision 3.

SS. Reimbursable services. "Reimbursable services" means eligible services under medicare.

TT. Reinsurance administrator. "Reinsurance administrator" means an entity with which the association contracts for administration of its reinsurance plan.

UU. Reinsurance assessment. "Reinsurance assessment" means a calendar year end (or other fiscal year end as determined by the association) assessment of participating members when pooling payments and payments by reinsurers for the year are not sufficient to fund paid and estimated obligations of the pool and administrative expenses of the pool.

VV. Reinsurance plan. "Reinsurance plan" means any mechanism by which the association undertakes to reinsure the risks which Minnesota Statutes, section 62E.10, subdivision 7 authorizes the association to reinsure.

WW. Reinsurance pool. "Reinsurance pool" or "pool" means the pool or fund into which the association or the reinsurance administrator deposits pooling payments, interim reinsurance assessments and reinsurance assessments paid to the association or its reinsurance administrator by insurer or fraternal members wishing to reinsure certain risks, as well as claims paid by reinsurers under contract for commercial reinsurance with the association, and other receipts, and from which the association or its reinsurance administrator pays premiums for commercial reinsurance, administrative expenses of the pool, and reimbursement for claims paid by insurer or fraternal members which have reinsured all or any portion of risks covered under policies or contracts which have been reinsured pursuant to a reinsurance pooling agreement with the association.

XX. Reinsurance pooling agreement. "Reinsurance pooling agreement" means the agreement between the association and participating members which establishes a reinsurance plan.

YY. Reinsurer. "Reinsurer" means the commercial reinsurance

company which contracts with the association to provide excess of loss coverage for the risks which participating members reinsure through the association.

ZZ. Rejection. "Rejection" means refusal by any association member to issue a qualified plan to a person who completes an application for coverage under such qualified plan, as determined by the board.

AAA. Renewal date. "Renewal date" means the date specified in a policy or contract on which renewal occurs. In the absence of a specified renewal date in a policy or contract renewal date shall be determined in reference to the anniversary date specified in the policy or contract and shall occur in intervals of no greater than 12 months duration as determined in reference to the date on which the policy or contract became effective. Renewal of a policy or contract shall be deemed to occur upon the expiration of a renewal date if coverage under the policy or contract is continued.

BBB. Resident of Minnesota. "Resident of Minnesota" means a person who is an actual resident of Minnesota, having there his or her principal and permanent abode.

CCC. Restrictive rider. "Restrictive rider" means a document or contractual provision adding certain conditions to the policy's or contract's coverage, the effect of which is to substantially reduce coverage from that received by a person who is considered a standard risk.

DDD. Student. "Student" means any unmarried child under the age of 25 who during the calendar year is enrolled in and attends an educational institution as a full-time student and who is financially dependent upon an insured person.

EEE. Total cost of self-insurance. "Total cost of self-insurance" includes any direct and indirect administrative expenses incurred which are related to the operation of a plan or self-insurance, plus the sum of any payment made to or on behalf of Minnesota residents for costs or charges for health benefits by a self-insurer under a plan of health coverage, regardless of the amount incurred or relationship of the cost to an insured or partially insured plan of health coverage, which is not counted as premium by an insurer, except to the extent of such payments made for coverage of the types described in clauses 1 to 8 of Minnesota Statutes, section 62E.02, subdivision 11.

FFF. Usual and customary charge. "Usual and customary charge" for the purpose of the state plan means the normal charge, in absence of insurance, of the provider for a service or article, but not more than the prevailing charge in the area for a like service or article. A "like service" is of the same nature and duration, requires the same skill and is performed by a provider of similar training and experience. A "like article" is one which is identical or substantially equivalent. "Area"

means the municipality (or, in the case of a large city, a subdivision thereof) in which the service or article is actually provided or such greater area as is necessary to obtain a representative cross-section of charges for a like service or article.

Part I - Qualified Comprehensive Health Insurance Plan

2241-2260

4 MCAR S 1.3202 Duties of employers.

A. Duty to make available a qualified plan. An employer shall be deemed to have made available a qualified plan to its employees as required in Minnesota Statutes, section 62E.03, subdivision 1 when participation under a number 2 or number 3 qualified plan or a health maintenance plan is offered to the employee directly or through an insurer or health maintenance organization and without regard to whether the cost of such participation is paid directly or indirectly by the employer or by the employee or by their joint payment.

B. Effect of collective bargaining on duty to make available a qualified plan. An employer whose employees are represented by one or more exclusive bargaining representatives shall be deemed to have complied with the provisions of Minnesota Statutes, section 62E.03, subdivision 1 with respect to all employees within each unit for collective bargaining if the employer makes available qualified plans of health coverage to the exclusive bargaining representatives.

1. Such employers shall be deemed to have complied with requirements of Minnesota Statutes, section 62E.03, subdivision 1 for each accounting period utilized by the employer for Minnesota income tax purposes during the entire term of any collective bargaining agreement executed after an offer of qualified health coverage has been made.

2. Nothing in this section shall require the employer to renegotiate any collectively bargained agreement solely for the purposes of compliance with this act.

C. Frequency of required offer. Except as provided in 4 MCAR S 1.3202 B., an employer shall be deemed to have complied with the requirements of Minnesota Statutes, section 62E.03, subdivision 1 of the act if he makes available to his employees a plan of health coverage which is certified as a number 2 or number 3 qualified plan or a health maintenance plan at least once during each accounting period utilized by the employer for Minnesota income tax purposes.

2241-2260

4 MCAR S 1.3203 Duties of insurers and fraternals.

A. Exception to definition of "accident and health insurance policy." The exception provided by Minnesota Statutes, section 62E.02, subdivision 11, clause (4) shall apply with respect to hospital indemnity coverage sold by an insurer to an applicant who is, at the time of application for hospital indemnity coverage, covered by a qualified plan, notwithstanding the possibility that the applicant may subsequently terminate coverage under a qualified plan.

1. The exclusion of Minnesota Statutes, section 62E.02, subdivision 11, clause (4) shall also apply to a hospital indemnity coverage which is sold by an insurer to an applicant who is then currently covered by a health maintenance plan.

2. Insurers shall be entitled to conclusively rely upon the written statement of an applicant for hospital indemnity coverage that such applicant is, at the time of the application, covered by a qualified plan or a health maintenance plan.

B. Timing of required offer of a qualified plan or qualified medicare supplement plan.

1. The offer of each type of qualified plan (that is a number 1, number 2, and number 3 qualified plan) which is required when an insurer or fraternal is offering an individual policy of accident health insurance shall occur no later than the date of delivery of such policy to the applicant.

2. The offer of a qualified medicare supplement plan which is required when an insurer or fraternal is offering a medicare supplement policy shall occur no later than the date of delivery of such policy to the applicant.

3. The offer of each type of qualified plan (that is a number 1, number 2, or number 3 qualified plan) required when an insurer or fraternal is offering a group policy of accident and health insurance shall occur no later than the date of delivery of such policy to the applicant.

4. "Each person who applies" and "applicant" for the purposes of Minnesota Statutes, section 62E.04 and this section of the rules shall be deemed to be only the individual making an initial application for an individual policy or in the case of a group policy, the corporation, partnership, proprietorship, association or other qualified entity making application for a group policy.

5. Minnesota Statutes, section 62E.04, subdivisions 1, 2 and 3 shall not be deemed to require an insurer or fraternal to offer a qualified plan or qualified medicare supplement plan at the time a policy is subject to renewal.

C. No duty to offer a particular category of insurance. For the purposes of the act, individual accident and health insurance, group accident and health insurance, individual medicare supplement plans and group medicare supplement plans are recognized as separate and distinct categories of insurance. Nothing in Minnesota Statutes, section 62E.04, subdivisions 1, 2 and 3 shall be construed as requiring an insurer or fraternal to engage in the business of offering or issuing a particular category of accident and health insurance policy or medicare supplement plan which it does not otherwise offer or issue in this state.

D. Duty to offer major medical coverage. Each insurer and

fraternal shall affirmatively offer, subject to its underwriting standards, coverage of major medical expenses to every applicant for a new unqualified policy at the time of application and annually thereafter to every holder of an unqualified policy of accident and health insurance as required by Minnesota Statutes, section 62E.04, subdivision 4. "Affirmatively offer" shall mean written advice to the applicant for, or the holder of, an unqualified policy of accident and health insurance, of the availability of coverage for major medical expenses. Such written advice of the availability of the coverage for major medical expenses may be satisfied by a contractual provision in the unqualified policy which gives the insured the contractual right to apply to the insurer or fraternal for a policy or rider which provides coverage for 80 percent of the covered expenses for services listed in Minnesota Statutes, section 62E.06, subdivision 1 or the actuarial equivalence thereof subject to a $5,000 deductible for out-of-pocket expenses, subject to the insurer's or fraternal's underwriting requirements.

E. Effect on foreign contracts. No provision of the act shall be construed to require any insurer or fraternal to alter or amend any policy or contract issued outside the state of Minnesota.

F. Exclusion of certain foreign conversion policies. The issuance of individual group conversion policies or contracts in Minnesota pursuant to Minnesota Statutes, section 62A.17 or 62E.16 shall not, in and of itself, constitute the transaction of accident and health insurance business by an insurer or fraternal which has relinquished prior authority to transact such business in Minnesota and which is not otherwise currently issuing policies or contracts in Minnesota.

G. Exceptions to duties for certain policies and contracts.

1. The continuation in force of a policy or contract under which there is no unilateral right of the insurer or fraternal to cancel, nonrenew, amend or change the terms, conditions or premium rate of the policy or contract in any way, shall not be considered a renewal for the purposes of Minnesota Statutes, section 62E.04 and 4 MCAR S 1.3225 A.1. if the policy or contract:

a. was issued prior to July 1, 1976, or

b. was designed solely to provide payments on a per diem, fixed indemnity or non-expense incurred basis and was issued prior to June 3, 1977.

2. The issuance or renewal by an insurer or fraternal on or after June 3, 1977, of the policy or contract which is designed solely to provide payments on a per diem, fixed indemnity or non-expense incurred basis, shall not be subject to Minnesota Statutes, section 62E.04, except for policies and contracts sold by an insurer to provide payments on a hospital indemnity basis if such coverage is issued to an applicant who

is not covered by a qualified plan or a health maintenance plan at the time of issue.

H. Sanction for failure to comply with duties of insurers and fraternals. Any insurer or fraternal not in compliance with Minnesota Statutes, section 62E.04 shall cease and desist from transacting accident and health insurance business in the state of Minnesota. Nothing in this section shall prohibit such an insurer or fraternal no longer meeting the definition of insurer in Minnesota Statutes, section 62E.02, subdivision 10 or fraternal in Minnesota Statutes, section 62E.02, subdivision 19 from continuing to maintain in force any policies or contracts described in 4 MCAR S 1.3203 G.1.

4 MCAR S 1.3204 Qualified plan pre-existing conditions. A qualified plan may include provisions consistent with generally accepted underwriting practices which provide that any pre-existing condition for any person covered under the policy which was diagnosed prior to the effective date of the policy, and for which medical care or treatment was rendered or prescribed during the 90 days immediately prior to the application for such policy, shall not be covered or eligible for the payment of any benefits for care or treatment rendered during a period of time beginning on the effective date of the policy and ending 24 months after the policy has been continuously in force.

4 MCAR S 1.3205 Minimum benefits of qualified medicare supplement plans. The minimum benefits of qualified medicare supplement plans shall be as provided in Minnesota Statutes, section 62E.07 and as described for the purposes of the state plan in 4 MCAR S 1.3230 C.

4 MCAR S 1.3206 Certification of qualified plans.

A. Application for certification. The application of an insurer, fraternal, or employer for certification by the commissioner of a plan of health coverage as a qualified plan or a qualified medicare supplement plan under Minnesota Statutes, section 62E.05 shall include the qualification number of the plan for which certification is sought pursuant to the procedures specified in the actuarial equivalence tables set forth in Appendix I of these rules.

B. Certification by the commissioner. An accident and health insurance policy or plan is deemed certified as a qualified plan or qualified medicare supplement plan for the purpose of Minnesota Statutes, section 62E.05 if it meets the requirements of these rules and other relevant laws of the state upon the expiration of 90 days after receipt of the request for certification by the commissioner, unless earlier rejected or certified by the commissioner. In the event the commissioner rejects such request, he shall give written notice of the

grounds for rejection to the person submitting the plan, and the insurer, fraternal or employer has the same rights in the event of such rejection as provided in Minnesota Statutes, section 62A.02.

C. Required benefits under the act. On or after June 3, 1977, each plan of health coverage, in order to be certified as a number 1, number 2 or number 3 qualified plan, shall provide a limitation of $3,000 per person on total annual out-of-pocket expenses and a maximum lifetime benefit of not less than $250,000, and shall provide all other benefits required under the act which are not subject to substitution of actuarially equivalent benefits, under Minnesota Statutes, section 62E.06.

D. Certification of an employer's plan of health coverage. For purposes of certification of an employer's plan of health coverage pursuant to Minnesota Statutes, section 62E.03, any plan of health coverage which constitutes a qualified plan at the time of issue shall continue to be a qualified plan until the later of the next renewal date of the plan of health coverage or the expiration of an applicable collective bargaining agreement, if any.

2241-2260

4 MCAR S 1.3207 Termination of coverage; conversion privileges.

A. Eligibility for conversion upon termination. A person whose employment has terminated may elect to exercise the right provided by Minnesota Statutes, section 62A.17 for continued coverage under the group insurance policy, group subscriber contract, health maintenance contract, or plan of health coverage which is self insured or, at the employee's option, may exercise the right provided by Minnesota Statutes, section 62E.16 to convert to an individual coverage qualified plan. If the employee elects to continue coverage under Minnesota Statutes, section 62A.17, such employee may not exercise the right of conversion under Minnesota Statutes, section 62E.16 until the continuation coverage obtained pursuant to Minnesota Statutes, section 62A.17 is terminated, and if the employee elects to convert to an individual qualified plan, the employee may not elect to continue group coverage pursuant to Minnesota Statutes, section 62A.17.

B. Duty to offer conversion policy or contract.

1. For the purposes of Minnesota Statutes, sections 62E.16 and 62A.17, an insurer, health maintenance organization, or self-insurer shall not be required to offer a conversion policy or contract to a person who is then covered by a qualified plan or eligible for medicare.

2. An insurer, health maintenance organization, or self-insurer shall not be required to renew a conversion policy or contract issued to a person who, during the prior policy or contract year, became covered by a qualified plan or became eligible for medicare.

3. An insurer, health maintenance organization or self-insurer which is required to offer conversion coverage to a terminated employee must offer, at the employee's option, a number 1, number 2 or number 3 qualified plan. A policy providing reduced benefits at a reduced premium rate may be accepted by the employee, spouse or a dependent in lieu of the option coverage otherwise required by Minnesota Statutes, sections 62A.17, subdivision 6, and 62E.16.

C. Due notice of cancellation or termination. An insurer, health maintenance organization or self-insurer shall be deemed to have provided "due notice of cancellation or termination" as required in Minnesota Statutes, section 62E.16 if the insurer, health maintenance organization or self-insurer notifies in writing those employees at their respective addresses as provided the insurer, health maintenance organization or self-insurer by the employer pursuant to the terms of Minnesota Statutes, section 62E.16.

2241-1260

4 MCAR S 1.3208 Revision of actuarial equivalence tables. The commissioner shall periodically, no less frequently than biennially, review the actuarial equivalence tables set forth in Appendix 1 of these rules, and shall require that the relative point values set forth therein be actuarially updated when required to more accurately reflect changes in the relative values of benefits (including copayments). Any revision of relative point values which the commissioner shall make shall be promulgated pursuant to the rulemaking requirements of the Administrative Procedure Act (Minnesota Statutes, chapter 15). Following revision of the actuarial equivalence tables pursuant to this section, recertification of existing plans of health coverage may be required subject to the provisions set forth in 4 MCAR S 1.3202, 1.3203, and 1.3206.

Part II - Minnesota Comprehensive Health Association

2241-2260

4 MCAR S 1.3225 MCHA; membership in the association.

A. Mandatory membership. As a condition of doing accident and health insurance business, self-insurance business or health maintenance organization business in Minnesota, all insurers, self insurers, fraternals and health maintenance organizations licensed or authorized to do business in this state shall become members of the association and maintain their membership therein.

1. "Accident and health insurance business" means the issuance or renewal of any accident and health insurance policy as defined in Minnesota Statutes, section 62E.02, subdivision 11.

a. An insurer is engaged in accident and health insurance business during the period in which any policy or contract which has been issued or renewed remains in effect.

b. Such business shall not include the issuance or renewal of policies or contracts providing coverage which is:

(1) limited to disability or income protection coverage for a specified period of time;

(2) limited to automobile insurance which provides coverage for medical payments as defined and authorized under Minnesota Statutes, section 60A.06, subdivision 1, clause (12);

(3) supplemental to liability insurance, as defined and authorized in Minnesota Statutes, section 60A.06, subdivision 1, clause (13);

(4) limited to policies or contracts issued prior to July 1, 1976 under which there is no unilateral right of the insurer or fraternal to cancel, nonrenew, amend or change the terms, conditions or premium rate of the policy or contract in any way; provided that all policies and contracts designed solely to provide payments on a per diem, fixed indemity or non-expense incurred basis issued prior to June 3, 1977 under which there is no unilateral right of the insurer or fraternal to cancel, nonrenew, amend or change the terms, conditions or premium rate of the policy or contract in any way, are also excluded;

(5) designed solely to provide payment on a per diem, fixed indemnity or nonexpense incurred basis except that all policies and contracts designed solely to provide payments on a hospital indemnity basis issued or renewed by an insurer on or after June 3, 1977 are included to the extent that such coverage is issued to an applicant who is not covered by a qualified plan or a health maintenance plan at the time of issue;

(6) Limited to credit accident and health insurance, meaning insurance on a debtor to provide indemnity for payments

becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy, as authorized by Minnesota Statutes, chapter 62B;

(7) designed solely to provide dental or vision care;

(8) limited to blanket accident and sickness insurance as defined in Minnesota Statutes, section 62A.11; or

(9) limited to accident only coverage issued by a licensed and tested insurance agent or solicitor and which provides reasonable benefits in relation to the cost of covered services.

2. "Self-insurance business" means the provision, directly or indirectly, of a plan of health coverage by a self-insurer. "Self- insurance business" does not include the direct provision of health care services to employees at no charge to them by an employer engaged in the business of providing health care services to the public, nor does it include provision of benefits which, if provided by an insurer doing accident and health insurance business, would be excluded under 4 MCAR S 1.3225 A.1.b.(1)-(9) of these rules. "Directly or indirectly" for the purposes of this section of the rules means that the employer or employee welfare benefit plan funds the plan of health coverage in any amount or collects any employee contributions which are used to pay for the plan of health coverage.

3. "Health maintenance organization business" means the operation of a nonprofit corporation licensed and operated as provided in Minnesota Statutes, chapter 62D.

4. "Licensed or authorized to do business" means:

a. licensed by the commissioner to conduct business under Minnesota Statutes, chapter 62A, 62C, or 64A, or by the commissioner of health under Minnesota Statutes, chapter 62D, or

b. authorized by the secretary of state to carry on any business in the state of Minnesota or otherwise doing business in this state and acting as an insurer, self-insurer, fraternal or health maintenance organization.

B. Assessment agreement. Each member shall enter into an assessment agreement with the association for a one year term, renewable annually thereafter as required by the act. Signing this assessment agreement shall fulfill the requirement that members enter into a reinsurance contract with the association under Minnesota Statutes, section 62E.10, subdivision 5. The agreement shall be signed by an officer of the member who is authorized to enter into contracts on behalf of the member, shall be in a form adopted by the board of directors of the association and approved by the commissioner, and shall include but not be limited to provisions regarding the members" obligation to:

1. share proportionately in funding the operating and administrative expenses of the association in accordance with 4 MCAR S 1.3225 C. and D. below;

2. share proportionately in the losses of the association in accordance with 4 MCAR S 1.3225 C. and D. below;

3. pay all fiscal year-end assessments which shall be due within 30 days after the end of the association's fiscal year (December 31 unless the association establishes a different fiscal year end) and shall be payable 30 days after receipt of a written assessment notice.

C. Assessments. Members, according to the assessment agreement, will be assessed for their proportionate share of the operating and administrative expenses of the association, incurred or estimated to be incurred, together with losses, if any, incurred by the association as a result of operation of the state plan. The total amount of operating and administrative expenses and losses:

1. shall be determined annually by the board at each fiscal year end;

2. may, at the recommendation of the board, subject to the approval of the commissioner, consist of a reasonable estimate of the operating and administrative expenses of the association for the succeeding fiscal year, which amount shall be adjusted at the end of the succeeding fiscal year to the amount of actual operating and administrative expenses, and members shall be entitled to credit for any excess or shall be assessed for any deficit in these expenses in the next annual fiscal year end assessment.

D. Levy of assessments. The association may levy assessments following each fiscal year end.

1. The association may also, upon approval of the commissioner, levy interim assessments when deemed necessary to assure the financial capability of the association to meet the incurred or estimated operating and administrative expenses of the association and losses resulting from the state plan. Interim assessments shall be due and payable within 30 days of receipt by a member of a written interim assessment notice.

2. The association shall levy each member's share of the total assessment based on the ratio of:

a. the member's total accident and health insurance premium, subscriber contract charges or health maintenance organization contract charges (the preceding defined as charges for business defined in 4 MCAR S 1.3225 A.1. and A.3. above) received from or on behalf of residents of Minnesota, or total cost of self-insurance, as determined by the commissioner, to

b. the total for all members of premiums, contract

charges and benefit plan costs reported in 4 MCAR S 1.3225 D.2.a.

3. The costs and charges referred to in the ratio in 4 MCAR S 1.3225 D.2.a. and b. shall, to the extent possible, be determined by reference to a form issued by the association or the commissioner which all members shall submit to the commissioner annually for the preceding calendar year.

a. If the required information is not available to the commissioner when necessary to levy an assessment the commissioner may estimate the member's share based on other available information relative to its experience, including but not limited to the annual statement which all insurers are required to transmit to the commissioner under Minnesota Statutes, section 60A.13.

b. The commissioner shall have the authority to audit the accounts and records of any member and any agent, trust, third party administrator or other entity administering all or any portion of a plan of health coverage with or on behalf of a self-insurer for the purpose of obtaining information necessary to levy an assessment.

4. The board may, in its discretion, decline to levy assessments against members which owe up to $5 or less in a given year.

E. Failure to execute assessment agreement or to pay assessments. The names of all insurers, self-insurers, fraternals and health maintenance organizations which are required under the act to be members of the association, but which fail to execute an assessment agreement, will be forwarded by the association to the commissioner for appropriate action within the discretion of the commissioner. Any members which fail to pay annual or interim assessments when such assessments become payable will be reported by the association to the commissioner for appropriate action within the discretion of the commissioner.

2241-2260

4 MCAR S 1.3226 MCHA; organization and approval. The association shall operate pursuant to the provisions of Minnesota Statutes, chapter 62E, with all the powers of a corporation formed under Minnesota Statutes, chapter 317, except that if the provisions of the two chapters conflict, chapter 62E shall govern.

A. Amendments to the articles of incorporation. Amendments to the articles of incorporation shall be submitted to and approved by the commissioner before filing with the secretary of state.

B. Amendments to the bylaws. All amendments to the bylaws of the association shall be submitted to and approved by the commissioner before they become effective.

C. Operating rules. The board is authorized to adopt and to amend from time to time reasonable operating rules which are not inconsistent with the act and these rules for the management and operation of the association. Upon submission to and approval by the commissioner, these operating rules shall become effective.

2241-2260

4 MCAR S 1.3227 MCHA; board of directors.

A. Composition. The management of the association shall be vested in a board of seven directors who shall be representative of the membership of the association, and be officers, employees or agents of members of the association during their terms of office, and shall automatically be removed for failure to meet this qualification.

B. Election. The board shall be elected by members at the annual meeting of the association in accordance with the bylaws of the association, to the extent that such bylaws are consistent with the provisions of Minnesota Statutes, chapters 317 and 62E, and in accordance with the provisions relating to voting rights as outlined in 4 MCAR S 1.3228.

1. Prior to the election, the association may submit the names of proposed board members to the commissioner for approval.

2. After the annual meeting, the results of the election shall be certified and submitted to the commissioner for approval pursuant to criteria set forth in Minnesota Statutes, section 62E.10, subdivision 2.

C. Duties. The duties of the board shall include management of the association in furtherance of its purposes as provided in the act, and as authorized in the articles of incorporation and bylaws of the association.

1. Members of the board may be reimbursed by the association for expenses incurred by them in attending board or board committee meetings and for other reasonable expenses incurred within the scope of their activities as directors and within guidelines established by the board and approved by the commissioner, but shall not otherwise be compensated for their services.

D. Officers and committees. The board may elect officers and establish committees as provided in the bylaws of the association. These officers and committees shall be charged with such duties as authorized by the board in accordance with the bylaws of the association.

2241-2260

4 MCAR S 1.3228 MCHA; determination of member's voting rights.

A. Meetings. Every member is entitled to vote at the annual meeting and at any special meeting of the members.

B. Weighted vote. A member's vote shall be a weighted vote based on the member's cost of self-insurance, accident and health insurance premiums, subscriber contract charges or health maintenance contract charges derived from or on behalf of residents of Minnesota in the previous calendar year, as determined by the commissioner.

1. To the extent possible, this figure shall be determined by reference to the annual reporting form submitted to the commissioner in accordance with 4 MCAR S 1.3225 D.3.

2. If the necessary information is not available to the commissioner on the form described in 4 MCAR S 1.3228 B. at the time that voting rights must be determined, the commissioner may estimate the member's weighted vote based on other information available to the commissioner.

C. Voting procedures. Members are entitle to vote in person, by proxy, or by mail as determined by the board.

1. When a member elects to vote in person at a members' meeting, the representative casting the vote shall present credentials as required pursuant to the bylaws or operating rules of the association.

2. When a member elects to vote by proxy, the proxy statement as approved by the board and by the commissioner shall be returned on or before the date indicated in the meeting notice sent to the members.

3. Voting by mail may be permitted as authorized by the bylaws or operating rules of the association, and the meeting notice to members shall so indicate.

4 MCAR S 1.3229 MCHA; meetings of the association.

A. Annual meeting. An annual meeting of the members shall be held for the purpose of electing directors as provided in 4 MCAR S 1.3227 B. and for the purpose of transacting any other appropriate business of the membership of the association.

1. The meeting shall be held in the second calendar quarter of each year unless otherwise determined by the board, and shall occur at such date, time and place as the board determines.

2. "Appropriate business" includes any activities related to the powers and duties of the association under Minnesota Statutes, chapter 62E or 317.

3. Notice and quorum requirements shall be as provided in the articles of incorporation or bylaws of the association or as otherwise authorized by the board.

B. Special meetings. Special meetings of the members shall

be held at the request of the commissioner and may otherwise be held as provided by the articles of incorporation or bylaws of the association for the purpose of conducting any appropriate business of the association.

1. A special meeting may be held at such date, time and place designated in the notice of the meeting.

2. Notice and quorum requirements shall be as provided in the articles of incorporation or bylaws of the association or as otherwise authorized by the board.

C. Open meetings. All meetings of the association membership, board and any committees established in accordance with 4 MCAR S 1.3227 D. shall be held in compliance with the provisions of the open meeting law (Minnesota Statutes, section 471.705).

2241-2260

4 MCAR S 1.3230 MCHA; minimum benefits of Comprehensive Health Insurance Plans.

A. Duty to offer. The association shall offer a number 1 and number 2 qualified plan, and a qualified medicare supplement plan to eligible persons. The association shall offer health maintenance plans in areas of the state where a health maintenance organization has agreed to make the coverage available and has been selected as a writing carrier in accordance with 4 MCAR S 1.3233 A. The association may provide for coverage for eligible dependents.

B. Benefits of a number 1 and number 2 qualified plan. Benefits shall meet or exceed the requirements of Minnesota Statutes, section 62E.06 or the actuarial equivalence thereof as determined pursuant to the actuarial equivalence tables set forth in Appendix I of these rules, except where substitution of an actuarially equivalent benefit is not permissible under the act.

1. The minimum benefits shall be equal to at least 80 percent of the charges for covered expenses in excess of the annual deductible which shall not exceed:

a. $500 for a number 2 qualified plan,

b. $1,000 for a number 1 qualified plan.

2. Coverage shall include an annual (calendar year) limitation of not more than $3,000 per covered person on total out-of-pocket expenses, which out-of-pocket expenses shall include the deductible under the state plan policy or contract, and which benefit (copayment) is not subject to substitution of an actuarially equivalent benefit (copayment).

3. Coverage shall be subject to a maximum lifetime benefit of not less than $250,000 per covered person, less any

amount paid to or on behalf of the covered person under any other state plan policy or contract. This benefit is not subject to substitution of an actuarially equivalent benefit.

C. Benefits of a qualified medicare supplement plan. Benefits of a qualified medicare supplement plan shall meet or exceed the following minimum standards or the actuarial equivalence thereof as determined pursuant to the actuarial equivalence tables set forth in Appendix I of these rules.

1. The plan shall provide benefits to covered persons who are 65 years of age or older by supplementing medicare through provision of 50 percent of the deductible and copayment required under medicare.

2. The plan shall provide 80 percent of the covered charges for expenses as provided in Minnesota Statutes, section 62E.06 or the actuarial equivalence thereof, which charges are not paid or payable under medicare or would not have been paid or payable had the covered person who is or was entitled or eligible to enroll in medicare been so enrolled.

3. Coverage shall include an annual limitation of $1,000 total out-of-pocket expenses per covered person for covered expenses.

4. Coverage may not be subject to a maximum lifetime benefit of less than $100,000, or the unused portion of the maximum lifetime benefit under any policy or contract of the state plan under which the person was previously covered, whichever is less.

D. Benefits of a health maintenance plan. Benefits of a health maintenance plan shall include those comprehensive health maintenance services required by Minnesota Statutes, chapter 62D and rules thereunder.

E. Pre-existing conditions. No person who obtains coverage under a policy or contract of the state plan shall be covered for any pre-existing condition during the first six months of coverage under the state plan if such covered person was diagnosed or treated for that condition during the 90 days immediately preceding the filing of a completed certificate of eligibility.

4 MCAR S 1.3231 MCHA; approval of state plan.

2241-2260

A. Submission of proposed state plan. Members of the association may submit to the association policies or contracts which have been approved by the commissioner for selection by the association as the state plan.

B. Approval of policies or contracts by the association. The association shall select policies or contracts to constitute the state plan from among the proposals submitted by the members

or from proposals developed by the association or others. These policies and contracts, or parts thereof, may be used to develop specifications for bids from members which wish to be selected as a writing carrier to administer the state plan.

C. Approval of the state plan. The policies or contracts approved by the association as the state plan shall be approved by the commissioner prior to issuance.

2241-2260

4 MCAR S 1.3232 MCHA; solicitation, application and enrollment of eligible persons in the state plan.

A. Open enrollment. The state plan shall be open for enrollment by eligible persons at all times.

1. "Eligible person" means a resident of Minnesota who submits or on whose behalf is submitted a complete certificate of eligibility and enrollment form to the association or its writing carrier and who is not already covered by another state plan policy or contract.

a. A complete certificate of eligibility and enrollment form may provide:

(1) name, address, age, sex, and length of time as a resident of Minnesota,

(2) name, address, and age of eligible dependents, if any, if they are to be insured;

(a) "eligible dependent" means the insured person's spouse who has not reached age 65 or unmarried child, excluding:

(i) a legally separated spouse;

(ii) a child who is 19 years old or older unless that child is a student or disabled child;

(iii) a spouse or child who has applied for an individual state plan policy or contract pursuant to any conversion privilege granted to such eligible dependent under the insured person's state plan policy or contract; and

(iv) a spouse or child on active duty in any military, naval or air force of any country.

(3) evidence of rejection, or a requirement of a restrictive rider or pre-existing conditions limitation on a qualified plan the effect of which is to substantially reduce coverage from that received by a person who is considered a standard risk, by at least two association members within six months of the date of application. "Substantially reduce coverage from that received by a person who is considered a standard risk" includes any restriction on coverage as a result

of an illness, condition, or risk which the association deems substantial, any increase in rates for an applicant based on an illness, condition or risk, which the association deems substantial, and any pre-existing conditions limitation which the association deems substantial.

b. Before a person is determined to be an eligible person, the board may require that any items listed in 4 MCAR S 1.3232 A.1.a. or, if acting pursuant to provisions of the association's operating rules, other necessary information be submitted to the association or its writing carrier and may also investigate the authenticity of information submitted as a part of the certificate of eligiblity.

c. If a covered person, upon reaching age 65, wishes to purchase a state plan qualified medicare supplement plan, the requirement that the person obtain two rejections from members of the association within the preceding six months may be waived by the board if acting pursuant to provisions of the association's operating rules.

d. A person who is age 65 or older shall be eligible for coverage only under the state plan's qualified medicare supplement plan and when an insured person under a qualified plan reaches age 65, the board may, if acting pursuant to provisions of the association's operating rules, terminate or refuse to renew coverage under the qualified plan.

e. An applicant or any person proposed to be covered under the state plan who has previously been covered by a state plan policy or contract and who has exhausted the maximum lifetime benefit under the state plan shall not be an eligible person for coverage under the state plan, provided that an applicant for a qualified medicare supplement policy or contract of the state plan who has previously been covered under the state plan shall be eligible for a maximum benefit under the qualified medicare supplement policy or contract of $100,000, or the unused portion of the maximum lifetime benefit under any policy or contract of the state plan under which the person was previously covered, whichever is less.

f. When a covered person under the state plan no longer meets one or more of the requirements for eligibility for coverage under the state plan, the board may, if acting pursuant to the association's operating rules, terminate or refuse to renew coverage under the state plan.

B. Association's response. Within 30 days of receipt of a complete certificate of eligibility and enrollment form pursuant to 4 MCAR S 1.3232 A.1.a. and A.1.b., the association or the writing carrier shall accept the certificate of eligibility or shall reject the certificate of eligibility for failure to meet the eligibility requirements.

1. If the association or its writing carrier accepts the certificate of eligibility, it shall forward a notice of

acceptance, billing information and a policy or contract (or certificate) which shall evidence coverage under the state plan.

a. Such policy or contract (or certificate) of coverage shall include but not be limited to:

(1) a statement that the person is covered under the state plan from the effective date contained therein,

(2) specification of the type of state plan under which the person is covered,

(3) a statement that the plan is provided by the association,

(4) a description of the benefits provided by the plan, conditions for eligibility, and exclusions and limitations of coverage, and

(5) provision for an identification card for each insured person indicating the type of state plan and also that coverage is being provided by the association.

b. When the state plan premium is received by the association or its writing carrier for the first billing period (and accepted in accordance with 4 MCAR S 1.3232 B.), the coverage shall be effective retroactive to the date of receipt by the association or its writing carrier of the completed certificate of eligibility pursuant to 4 MCAR S 1.3232 A.1.a. and A.1.b. unless otherwise requested by the insured person and approved by the board.

2. If the association does not accept the certificate of eligibility the applicant shall be informed of the reason for the rejection and shall have the opportunity to submit additional information to substantiate eligibility for coverage under the state plan and to request reconsideration of the decision. The board shall establish a review mechanism for reviewing requests for reconsideration of rejected certificates of eligibility. The association shall give notice of a final determination of ineligibility to the applicant stating the reasons therefor and advising the applicant of the right to appeal to the commissioner within a reasonable period of time.

C. Appeal to commissioner. Any applicant or covered person who is determined by the association to be ineligible for coverage under the state plan may appeal such determination to the commissioner within a reasonable period of time. Upon receipt of an appeal from a determination of ineligibility, the commissioner may, in his discretion, affirm, reverse, or modify the determination of the association.

D. Solicitation of eligible persons. The association shall develop a plan for use by the association, upon approval by the commissioner, to publicize the existence of the state plan, the eligibility requirements and procedures for enrollment, and to

maintain public awareness of and participation in the state plan.

1. The association shall prepare and make available certificate of eligibility forms and enrollment instruction forms to insurance solicitors, agents and brokers, and to the general public in Minnesota.

2. The association shall require the writing carrier to pay a referral fee of $25 for any certificate of eligibility accepted by the association or its writing carrier. The referral fee shall be paid to the licensed agent whose signature appears as the agent on the accepted certificate of eligibility. The referral fee shall be paid from the premium received for the state plan.

2241-2260

4 MCAR S 1.3233 MCHA; selection, approval, and operations of writing carrier(s).

A. Selection and approval of a writing carrier(s).

1. The association may select a writing carrier or writing carriers on the basis of criteria for selection which shall include but not be limited to:

a. the member's proven ability to handle large group accident and health insurance cases,

b. the efficiency of the member's claim paying capacity,

c. an estimate of total charges for administering the plan, and

d. other criteria developed by the association and set forth in its operating rules.

2. The writing carrier selected by the association shall be approved by the commissioner prior to the establishment of a contract with the association and prior to the commencement of its duties pursuant to Minnesota Statutes, section 62E.13 and 4 MCAR S 1.3233 B.

3. The writing carrier shall serve for a period of three years, unless the commissioner approves an earlier termination at the request of the writing carrier or the association in accordance with the terms of its contract with the writing carrier.

a. The commissioner shall approve or deny a request for termination within 90 days of receipt of such request.

b. Failure to make a determination within 90 days of receipt of such request shall be deemed to be an approval.

4. If termination is approved by the commissioner, the

writing carrier shall serve for up to six months from the date of the writing carrier's request for termination, at the discretion of the association, to allow the association to select another writing carrier.

5. Six months prior to the expiration of each three year period of service by a writing carrier, the association shall invite insurer and health maintenance organization members, including the current writing carrier(s), to submit bids to serve as writing carrier for the succeeding three year period.

B. Operations of the writing carrier.

1. The writing carrier shall perform all administrative and claims payment functions relating to the state plan.

a. The writing carrier shall establish a premium billing procedure for collection of premiums from insured persons.

(1) Billings shall be made on a periodic basis as determined by the board.

(2) The amount of the premium shall be as determined from time to time by the board pursuant to Minnesota Statutes, section 62E.08.

b. The writing carrier shall perform all necessary functions to assure timely payment of benefits to covered persons under the state plan.

(1) The writing carrier shall make available information relating to the proper manner of submitting a claim for benefits under the state plan and shall distribute forms upon which submissions shall be made.

(2) The writing carrier shall evaluate the eligibility of the claim for payment under the state plan.

(3) The writing carrier shall determine the usual and customary charges for professional services, supplies or institutional care for which a claim is made under the state plan policy or contract.

(4) The writing carrier shall exercise reasonable efforts to advise covered persons, within 15 working days of receipt of a properly completed and executed proof of loss, whether the submitted claim was accepted or rejected by the writing carrier, unless sooner settled.

(5) The writing carrier shall establish an appeals procedure approved by the board to review claims which are denied in whole or in part. When a claim or any portion thereof is denied, the writing carrier shall inform the covered person of the existence of the procedure, including the right to appeal to the commissioner within a reasonable period of time.

2. The writing carrier shall submit monthly reports to the commissioner and the board on the operation of the state plan. The content and form of the report shall be as determined by the board and approved by the commissioner.

3. The writing carrier shall pay claims expenses from the premium payments received from or on behalf of covered persons under the state plan. If the writing carrier's payments for claims expenses exceed the portion of the state plan premiums allocated by the board for payment of claims expenses, the association shall provide to the writing carrier additional funds for payment of claims expenses. Not less than 87-1/2 percent of the state plan premium, as determined by the board, shall be used to pay claims expenses, and not more than 12-1/2 percent of the state plan premium shall be used to pay agent referral fees (authorized by Minnesota Statutes, section 62E.15, subdivision 3) and to pay the writing carrier's direct and indirect expenses (as defined and authorized in Minnesota Statutes, section 62E.13, subdivision 7 and described in 4 MCAR S 1.3233).

4. The writing carrier shall be paid from time to time as provided in the association's contract with the writing carrier for its direct and indirect expenses incurred in the performance of its services from the state plan premiums received in an amount not to exceed the lesser of:

a. 12-1/2 percent of the state plan premium, less agent referral fees payable under 4 MCAR S 1.3232 C.1.b.,

b. direct and indirect operating and administrative expenses incurred in the performance of its services, or

c. an amount agreed upon by the board and the writing carrier.

5. "Direct and indirect expenses" shall include that portion of the carrier's actual administrative, printing, claims administration, management, building overhead expenses and other actual operating and administrative expenses approved by the board as allocable to the administration of the state plan.

6. The board shall approve cost accounting methods of the writing carrier, which shall be consistent with generally accepted accounting principles.

7. The board shall have the authority to conduct periodic audits to verify the accuracy of financial data and reports submitted by the writing carrier.

C. Appeal to commissioner. Any covered person whose claim for benefits under the state plan is denied, in whole or in part, may appeal such determination to the commissioner within a reasonable period of time. Upon receipt of an appeal from a claim denial, the commissioner may, in his discretion, affirm, reverse or modify the determination of the association.

2241-2260

4 MCAR S 1.3234 MCHA; reinsurance.

A. Authority to make available reinsurance. The association may provide for reinsurance of risks incurred by insurer or fraternal members resulting from such members' issuance of all or any of the following categories of coverage as provided in the act:

1. individual qualified plans (but not including group conversions),

2. individual qualified medicare supplement plans (but not including group coversions),

3. group conversions on qualified plans,

a. "group conversions" means the conversion policies or contracts required to be issued under Minnesota Statutes, sections 62A.16 and 62A.17 or section 62E.16;

4. group qualified plans which cover fewer than 50 employees or insured persons,

5. group qualified medicare supplement plans with fewer than 50 employees or insured persons,

6. individual major medical coverage, and

7. group major medical coverage.

A member may make a separate election to reinsure each of the above categories of coverage.

B. Reinsurance plan. The association may enter into reinsurance pooling agreements with insurer and fraternal members to establish a reinsurance plan for risks of categories of coverage described in 4 MCAR S 1.3234 A. The reinsurance plan may provide for a reinsurance pool.

1. Insurer or fraternal members wishing to participate in the pool shall apply to the association for participation in the pool, specifying the categories of coverage which the member desires to reinsure.

a. Members entering into a reinsurance pooling agreement for a particular category or categories of coverage shall offer to place in the pool all policies and contracts that it issues in the category or categories listed in 4 MCAR S 1.3234 A. which it wishes to reinsure.

b. Only policies and contracts acceptable to the association or its reinsurance administrator may be accepted for reinsurance. The association is under no obligation to accept any but standard risks in the reinsurance plan.

2. The association may obtain commercial reinsurance to reduce the risk of loss through the pool to insurer or fraternal members entering into reinsurance pooling agreements. Any contract for commercial reinsurance entered into between the association and a commercial reinsurer shall be binding on any insurer or fraternal member entering into a reinsurance pooling agreement.

3. The association may administer the pool directly or through a reinsurance administrator.

a. The association or its reinsurance administrator may establish underwriting standards with which participating members shall comply and may perform reinsurance underwriting on all policies or contracts submitted for reinsurance.

b. The association or its reinsurance administrator may perform benefit calculation (claims processing) for all claims eligible for reimbursement to participating members. Only claims paid by participating members and approved by the association or its reinsurance administrator shall be eligible for reimbursement by the association or its reinsurance administrator in accordance with the reinsurance pooling agreement.

c. Except for underwriting and claims processing functions, the association or the reinsurance administrator shall have no responsibility for other administration functions for any member's reinsured policies or contracts unless otherwise agreed to by the association.

4. Participating members shall have the duties established in the reinsurance pooling agreement, including but not limited to:

a. submitting reports which provide all information deemed necessary by the association or its reinsurance administrator for performance of reinsurance, underwriting, and claims processing functions;

b. paying all pooling payments; and

c. paying all reinsurance assessments and interim reinsurance assessments as required by the board.

C. Pooling payments. The association may require pooling payments from all participating members, to provide for reimbursement to participating members for claims paid under reinsured policies and contracts and for payment of administrative expenses of the pool incurred or estimated to be incurred during the period for which the pooling payment is made. Pooling payments shall be established by the association to provide at least 110 percent of total anticipated expenses for reinsurance and for administration of the policies or contracts which are reinsured.

D. Assessment of participating members.

1. At the end of each calendar year (or other fiscal year end established by the association) the board may assess participating members on the basis of the formula established in or as a part of the reinsurance pooling agreement.

2. The board may also levy interim reinsurance assessments to assure the financial ability of the association to reimburse participating members for claims paid under reinsured policies and contracts and operating and administrative expenses incurred or estimated to be incurred in the operation of the reinsurance plan until the calendar year end (or other fiscal year end established by the association) reinsurance assessment.

a. Interim reinsurance assessments shall be due and payable within 30 days of receipt by a participating member of an interim reinsurance assessment notice.

b. Interim reinsurance assessments shall be credited to each participating member in the year end reinsurance assessment calculation.

3. Each participating member's reinsurance assessment (net after credit for any interim reinsurance assessment) shall be billed to the member by the association following each calendar year end (or other fiscal year end established by the association) and shall be due and payable within 30 days of receipt by the member of the reinsurance assessment notice.

E. Excess receipts. If pooling payments, reinsurance assessments and other receipts by the association or its reinsurance administrator as a result of the reinsurance plan exceed actual reinsurance losses and administrative expenses of the pool, such excess shall be held at interest and used by the association to offset losses (including but not limited to reserves for incurred but not reported claims) due to claims expenses of the state plan or allocated to reduce state plan premiums.

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4 MCAR S 1.3235 MCHA; severability. If any section or provision of these rules is declared unconstitutional or void by an court of competent jurisdiction or its applicability to any person or circumstances is held invalid, the constitutionality or validity of the remainder of the rules and applicability to other persons and circumstances are not affected, and to this end, the sections and provisions of these rules are declared to be severable.

APPENDIX I

Minnesota Comprehensive Health Insurance Act of 1976
Actuarial Equivalence of Qualified Plans and
Qualified Medicare Supplement Plans

I. How to Use the Test

A. Basic and Comprehensive Major Medical Plans.

1. List the Plan benefits, ignoring deductibles and coinsurance. –

2. For each benefit, find the appropriate Table of Equivalent Points for Basic and Major Medical Plans.

3. Extract the appropriate point value for the benefit from the Table, interpolating as necessary or indicated, and place it opposite the listed benefit.

4. Ignore benefits for which no Table exists.

5. List deductible, coinsurance and plan maximum if the Plan is a Comprehensive Major Medical Plan.

6. Find Table(s) of points for deductible, coinsurance and plan maximum.

7. Extract the appropriate point values for deductible, coinsurance and plan maximum, usually negative, interpolating as necessary, and place the values in the list of points.

8. Add algebraically the list of points.

9. Refer the result to the Test For Actuarial Equivalence to determine Qualification.

B. Superimposed Major Medical Plans.

1. Follow steps A.1 through A.4 for Basic Health Plan Benefits.

2. Total the points for the Basic Plan.

3. Enter Tables 21, 22 and 23 of the Tables of Equivalent Points to determine the point value of a Qualified Plan superimposed over the Basic Plan with the Deductible and Benefit Period of the Plan at hand, interpolating as necessary. Put the points in the point column.

4. Compare the benefits in the Superimposed Major Medical Plan with the benefit structure of a Qualified Plan:

a. $250,000 Lifetime Maximum.

b. 80/20 Coinsurance.

c. $3,000 annual per person out-of-pocket maximum.

d. Eligible Expenses are Usual and Customary Expenses For:

(1) Hospital Services.

(2) Physician Care.

(3) Prescription Drugs.

(4) Nursing-Home Care of up to 120 days in one year commencing within 14 days of hospitalization of at least three days.

(5) Home Health Care.

(6) Radium and Radioactive Therapy.

(7) Oxygen.

(8) Anesthetics.

(9) Prostheses.

(10) Rental or purchase of durable medical equipment.

(11) Diagnostic X-Rays and laboratory tests.

(12) Oral surgery on impacted teeth, teeth roots and gums and tissues, not in connection with tooth extration.

(13) Physical therapy.

(14) Maternity same as any illness.

(15) Minnesota statutorily mandated benefits.

(16) Coordination of Benefits.

5. Consult the Tables for point adjustments (usually negative) for Qualified Plan benefits not in the Superimposed Major Medical Plan being tested. Put the adjustments in the point column.

6. Add algebraically the points for the Basic Plan (B.2.), the Superimposed Major Medical Plan (B.3.) and the adjustments (B.5.).

7. Refer the result to the Test for Actuarial Equivalence to determine Qualification.

C. Medicare Supplement Plans.

1. Follow the rules for Basic and Comprehensive Major Medical Plans but use the Tables of Equivalent Points for Medicare Supplement Plans and the Medicare Supplement Table of Actuarial Equivalence.

II. Benefit Variations Not Covered by Tables.

Only those plan variations that are most common are recognized. For instance, Comprehensive Plan coinsurance was assumed to normally not exceed 20%. Therefore, no points are shown for 25%. However, points for such missing benefit variations can be extrapolated or estimated.

III. Use of Tables.

Any insurer, self insurer, or policyholder may use the Test for Actuarial Equivalence as a Guide. However, to obtain certification of any plan of health benefits as "Qualified", it must be submitted to the commissioner. If an uninsured plan description or a policy form number or policy identification number is sent to the commissioner, together with a statement of its total Equivalent Point Value from the Tables, and with a certification by a principal or officer of an insurer, or by a Member of the Academy of Actuaries for plans submitted by employers, that the plan is Qualified by virtue of the Test of Actuarial Equivalence as either a Plan 1, 2 or 3 or a Medicare Supplement Plan, the plan will be deemed certified as filed. If the Test does not qualify a plan or does not result in qualification for the Plan (i.e., 1, 2 or 3) desired by the insurer or self insurer, the filing must include the plan document or policy, the Equivalent Point Calculation and a statement of specific reasons for the desired qualification. Such plan will not be qualified until and unless so certified by the commissioner.

IV. Update of Tables.

Periodically, the Tables may be revised as health care cost change. The commissioner may re-evaluate actuarial equivalence of any plan or policy at any time as he believes appropriate. Annual re-evaluation of plans is therefore suggested. When a plan is re-evaluated and its qualification status changes, the filing procedures in III, above, will be followed.

V. Mis-Use of Tables.

The tables of Equivalent Points are not intended for any other use, especially not for premium calculations. They represent a composite of dat, adjusted to be useable for testing actuarial equivalence. No other use is contemplated.

VI. Why the Test was Developed.

Minn. Stat. § 62E.02 defines Qualified Plans and Qualified Medicare Supplement Plans as health benefit plans that provide the benefits required in Minn. Stat. §§ 62E.06 or 62E.07, "or the actuarial equivalent to those benefits"; Minn. Stat. § 62.06 describes three Qualified Plans and Minn. Stat. § 62E.07 describes a Qualified Medicare Supplement Plan. These statutes require all plans of health coverage to be labelled as Qualified or Non-Qualified. The commissioner may be requested to determine whether a plan is qualified and he may take up to 90 days to make that determination.

The composite point values for a Qualified Plan number 3 and the point values for the Qualified Medicare Supplement Plan are as shown herein.

Composite Point Values For
Minnesota Qualified Plan No. 3
Arbitrary Radix = 1,000 Points

Points	Benefit
395	Hospital Room and Board — unlimited days, semi-private.
485	Hospital Extras (i.e., Hospital Services, Hospital Miscellaneous, Hospital Special Services, or Ancillary Services) including anesthesia.
210	Surgery, including oral surgery but no tooth repair or extraction.

220	Home and Office Physician Care — unlimited.
55	Physician Care in Hospital — unlimited.
75	Obstetrics — unlimited.
125	Hospital maternity — unlimited.
90	X-Rays and Laboratory tests — outpatient and out of hospital.
90	Prescription Drugs and Medicine — outpatient and out of hospital.
20	Emergency Accident Care.
15	Radioactive Therapy — outpatient and out of hospital.
20	Nursing or Convalescent Facility.
10	Home Health Agency Care.
10	Physical Therapy.
20	$3,000 annual "out of pocket" expense limit.
−75	Coordination of Benefits.
−45	Non-Duplication with No-Fault.
−430	$150 Deductible.
−290	20% Coinsurance.
1,000	Total

Note: When setting up the above table, some minor benefits (e.g., student dependents to age 25, oxygen, etc.) specified in the *Statute were overlooked. All have extremely nominal point* value so no re-calculation has been made for them at this time.

Composite Point Values For
Minnesota Qualified Medicare Supplement Plan
Arbitrary Radix = 100 Points

Points	Benefit
26.13	Hospital Room and Board — unlimited days, semi-private, reasonable and customary — Net of Medicare payments.
3.90	Skilled Nursing Home — Net of Medicare Payments.
.15	Blood and Blood Plasma (In Hospital) — Not provided by Medicare.
45.78	*Surgery, including oral surgery but no tooth repair or extraction.
104.66	*Home and Office Physician Care — unlimited.
22.70	*Physician Care in Hospital — unlimited.
57.58	*X-Rays and Laboratory tests — outpatient and out of hospital.
5.00	*Radioactive Therapy — outpatient and out of hospital.
3.75	*Home Health Agency Care.
1.48	*Miscellaneous.
48.67	Drugs and Medicine — outpatient and out of hospital.
5.00	Private duty nursing
−158.89	Part B Medicare payments credit.
−54.64	50% of Medicare Coinsurance and Deductibles.
−11.27	20% of expenses not covered by Medicare.
100.00	Total

*Gross expense — before Medicare payment under Part B.

Plan Name _____ Plan No. _____

WORKSHEET
Test for Actuarial Equivalence
Minnesota Comprehensive Health Insurance Act of 1976

A. Other then Medicare Supplement Plans

Table	Benefit	Basic	Major Medical: Superimposed	Major Medical: Comprehensive
21-23	Superimposed Major Medical	XXX		XXX
1.	Hospital Room and Board			
2.	Hospital Extras			
3	Surgery			
4.	Physician Care — Home, Office			
5.	Physician Care — Hospital			
15-18	Benefits In Full			

6.	Maternity			
7.	Diagnostic X-Ray and Lab			
8.	Drugs and Medicine			
9.	Emergency/Supplemental Accident			
10.	Radioactive Therapy			
12.	Nursing Convalescent Facility			
13.	Home Health Care			
14.	Physical Therapy			
14.	Oxygen			
14.	Prostheses			
14.	Durable Medical Equipment			
11.	Student Dependents			
24.	Limit on Out of Pocket			
25.	Maximum Benefit	XXX		
XX.	Subtotal			
26.	COB/No-Fault			
19-20	Coinsurance/Deductible	XXX		
XX.	Total			
XX.	Combined Basic and Superimposed		XXX	XXX

Equivalent to Minnesota Qualified Plan Number _____ Non-Qualified o

Date _____ By _____

Plan Name _____ Plan No. _____

WORKSHEET
Test for Actuarial Equivalence
Minnesota Comprehensive Health Insurance Act of 1976

B. Medicare Supplement Plan

Me	Benefit			
27.	Hospital — Defined daily benefit			
	Days	Daily Benefit	Factor	Product
	1		9.59	
	2-60		83.56	
	61-90		1.50	
	91-150		.61	
	151 & Over		1.02	
	Total	XXX		
	Divisor			
	Quotient			
	Multiplier			
	Product			
27	Hospital — Usual and customary charges not paid by Medicare			
	A. Medicare Deductible and Coinsurance			
	B. Benefits not covered by Medicare			
28.	Skilled Nursing Facility			
29	Blood			
30	Surgery			
31	Physician Care — Home and Office			
32	Physician Care — Hospital			
33	Home Health Care			
34	Diagnostic X-Ray and Laboratory			
35	Radioactive Therapy			
36	Drugs and Medicine			
37.	Private Duty Nursing			
38	Miscellaneous			
41	Comprehensive Major Medical			
XX	Subtotal			
39	Medicare Part B Payments			
40	Medicare Part B Deductible not Eligible			
XX	Total			

Equivalent to Minnesota Qualified Medicare Supplement Plan: Yes ☐ No ☐

Me _____ By _____

Test For
Actuarial Equivalence
Minnesota Comprehensive Health Insurance Act of 1976

A. For Plans Other Than Medicare Supplement Plans

If the Point Value of any Plan is:	Then that Plan is the Actuarial Equivalent of Minnesota Qualified Plan No.:
1,000 + points	3
700 + points	2
550 + points	1
Less than 550 points	Non-Qualified

B. For Medicare Supplement Plans

If the Point Value of any Plan is:	Then that Plan is the Actuarial Equivalent of Minnesota Qualified Plan No.:
100 + points	Minnesota Medicare Supplemental Plan

Location of Tables
of
Equivalent Points

A. Basic and Major Medical Health Plans

Table	Name
1.	Hospital Room and Board
2.	Hospital Extras
3.	Surgery
4.	Home and Office Physician Care
5.	In Hospital Physician Care
6.	Maternity
7.	Diagnostic X-Ray and Laboratory
8.	Drugs and Medicine
9.	Emergency and Supplemental Accident
10	Radioactive Therapy
11.	Student Dependents
12.	Nursing or Convalescent — Home Care
13.	Home Health Care Agency Service
14.	Physical Therapy
14.	Oxygen
14.	Prostheses
14.	Durable Medical Equipment
15	Hospital Room and Board in Full
16.	All Hospital Charges in Full
17.	All Hospital and Surgical Charges in Full
18.	All Hospital, Surgical and In-Hospital Physicians Care in Full
19.	*Coinsurance and Deductibles*
20.	Combined Dental and Health Insurance Deductible
21.	Superimposed Major Medical
22.	Superimposed Major Medical
23.	Superimposed Major Medical
24.	Limit on "Out of Pocket" Expenses
25.	Major Medical Maximums
26.	Coordination and Non-Duplication of Benefits

B. Medicare Supplement Plans

27.	Hospital Room and Board and Extras
28.	Skilled Nursing Facility
29.	Blood
30.	Surgery
31.	Home and Office Physician Care
32.	In-Hospital Physician Care
33.	Home Health Care
34.	Diagnostic X-Ray and Laboratory
35.	Radioactive Therapy
36.	Drugs and Medicines
37.	Private Duty Nursing
38.	Physical Therapy
38.	Oxygen
38.	Prostheses
38.	Durable Medical Equipment
39.	Medicare Part B Payments
40.	Medicare Part B Deductible
41.	Comprehensive Major Medical

Table of Equivalent Points For Basic and Major Medical Health Plans
(Not To Be Used For Medicare Supplement Plans)

1. Hospital Room and Board.

Maximum Days	Semi-Private Room at $81.00 Per Day	Deduct for Each $10 Day Less than Semi-Private
31	330	40
70	370	46
120	380	48
365	390	49
Unlimited	395	50

Additional Points Per $1.00
Excess of Private over Semi-Private

2. Hospital Extras (i.e., Hospital Services, Special Hospital Services, Ancillary Services, Hospital Therapeutics, etc.)

Maximum Amount	Anesthesia	
	Included	Not Included
$ 250	250	245
500	335	305
1,000	410	265
2,000	450	400
5,000	475	415
Unlimited	485	425

3. Surgery.

Limit	Assistant Surgeon Included	Anesthesia	
		Included	Not Included
1957 Intercompany			
a. $420 Maximum	No	100	85
b. $900 Maximum	No	195	170
Prevailing Fee*	No	230	200
Deduct for each "$1.00 per 1964 CRVS Unit" less than Prevailing Fee		25	22
Prevailing Fee*	Yes	240	210
Deduct for each $1.00 per 1964 CRVS Unit" less than Prevailing Fee		25	22

*Equivalent to $9.00 per 1964 CRVS Unit.

4. Home and Office Physician Care.

Annual Maximum	First Visit Accident	
	First Visit Sickness	Third Visit Sickness
$ 100	115	65
200	140	75
500	170	95
Unlimited	220	120

5. In-Hospital Physician Care.

Maximum Number of Visits	Prevailing Fee at Average $15.50 Day-Visit	Deduct for Each $1.00 Per Day Per Visit Less Than Prevailing Fee
31	40	3
70	46	3
120	49	3
365	52	4
Unlimited	55	4

6. Maternity

A. Complications only:

a. Limited to some specified list	20
b. Any complications	25

B. Full Maternity (including complications).

Limit	Deductible	Flat Maternity	Obstetrics	Hospital Maternity
$ 150	None	—	25	30
300	None	55	50	60
500	None	90	70	90

1,000	None	170	—	—
Unlimited	None	200	75	125
Unlimited	$500	100	—	—
Unlimited	$1,000	30	—	—

7. X-Rays and Laboratory Tests (Out of Hospital).

Maximum	Scheduled (Any Schedule)	Unscheduled
$ 50	40	50
100	55	70
200	60	80
Unlimited	65	90

8. Prescription Drugs and Medicine (Out of Hospital).

Deductible Per Prescription	
$ 2.00	60
1.00	75
None	90

9. Emergency and Supplemental Accident (Basic Plans Only).

Maximum	Emergency	Supplemental
$ 25	10	—
50	15	20
150	—	30
300	—	35
500	—	40
Unlimited	20	—

10. Radioactive Therapy (Out of Hospital).

Scheduled (Any Schedule)	10
Unscheduled	15

11. Student Dependents.

Student Extension Beyond Age 19	
None	0
To Age 21	2
To Age 23	4
To Age 25	5

12. Nursing or Convalescent Home Care (Within 14 days of hospital confinement of at least three days).

Maximum Days	
120 or More	20
Less than 120	0

13. Home Health Care Agency Services

Maximum Visits Year	
180 or More	10
Less than 180	0

14. Miscellaneous (Out of Hospital).

A. Physical Therapy	10
B. Oxygen	5
C. Prostheses	5
D. Durable Medical Equipment Rental or Purchase	5

15. Hospital Room and Board in Full to Indicated Limit (Basic and Comprehensive Major Medical Plans) — Use in lieu of Room and Board points in Number 1, above.

Plan	Plan Deductible On All Benefits	Insured Pays % of Excess Over Limit	Limit $1,000	Limit $2,000	Limit $5,000	Limit Unlimited
Basic	0	100%	300	325	365	395
Comprehensive	0	20%	455	460	470	475
Comprehensive	$ 50	20%	480	485	500	505
Comprehensive	100	20%	495	505	520	530
Comprehensive	150	20%	510	520	535	550

16. All Hospital Charges in Full to Indicated Limit (Basic and Comprehensive Major Medical Plans) — Use in lieu of Room and Board and Hospital Extras in Numbers 1 and 2, above.

Plan	Plan Deductible On All Benefits	Insured Pays % of Excess Over Limit	Limit $1,000	Limit $2,000	Limit $5,000	Limit Unlimited
Basic	0	100%	615	710	805	880
Comprehensive	0	20%	1005	1025	1045	1060
Comprehensive	$ 50	20%	1050	1080	1100	1130
Comprehensive	100	20%	1090	1125	1150	1180
Comprehensive	150	20%	1120	1160	1195	1225

17. All Hospital and Surgical Charges In Full to Indicated Limit (Basic and Comprehensive Major Medical Plans) — Use in lieu of Room and Board, Hospital Extras and Surgery points in Numbers 1, 2 and 3, above.

Plan	Plan Deductible On All Benefits	Insured Pays % of Excess Over Limit	Hospital Surgery	$1,000 $5 CRVS	$2,000 $6 CRVS	$5,000 $8 CRVS	Unlimited Unlimited
Basic	0	100%		740	855	955	1090
Comprehensive	0	20%		1240	1265	1295	1310
Comprehensive	$ 50	20%		1295	1330	1370	1400
Comprehensive	100	20%		1340	1385	1440	1465
Comprehensive	150	20%		1375	1425	1480	1515

18. All Hospital, Surgical and In Hospital Physicians Care In Full to Indicated Limit (Basic and Comprehensive Major Medical Plans) — Use in lieu of Room and Board, Hospital Extras, Surgical and In Hospital Physician Care points in Numbers 1, 2, 3 and 5, above.

Plans	Plan Deductible On All Benefits	Insured Pays % of Excess Over Limit	Hospital Surgical Physician	$1,000 $5 CRVS $5/Day	$2,000 $6 CRVS $6/Day	$5,000 $8 CRVS $8/Day	Unlimited Unlimited Unlimited
Basic	0	100%		750	865	1015	1145
Comprehensive	0	20%		1290	1320	1350	1375
Comprehensive	$ 50	20%		1355	1390	1430	1465
Comprehensive	100	20%		1400	1440	1490	1530
Comprehensive	150	20%		1440	1485	1540	1585

19. Coinsurance and Deductibles (Comprehensive Major Medical Plans).

Deductible	Coinsurance: Insured Pays Designated Percent of Expense in Excess of Deductible		
	0%	10%	20%
$ 0	0	−170	−375
50	−170	−325	−520
100	−310	−455	−630
150	−410	−520	−720
200	−520	−640	−790
500	−820	−910	−1020
1,000	−1010	−1080	−1170

20. Combined Dental and Health Insurance Deductible (Comprehensive Major Medical Plans).

Deductible	Added Points
$ 50	90
100	75
150	65
200	40
500	35
1,000	15

21. Superimposed Major Medical Plans — Over Basic Health Plans With Less than 500 Points.

1. Calculate point value of a Comprehensive Major Medical Plan using deductible $100 greater than actual.
2. Add Basic Health Plan points.

22. Superimposed Major Medical Plans — 80/20 Coinsurance — Over Basic Health Plans With 500-799 Points.

Deductible:	Add to Basic Plan Points			
	Calendar Year Plan		2 Year Benefit Period Plan	
	Individual	2 × Family	Individual	2 × Family
A. Corridor				
$ 50	740	780	745	765
100	665	705	680	700
150	615	655	630	650
200	575	615	590	610
500	365	405	380	400
B. Integrated				
$ 500	615	635	650	670
1,000	515	525	535	545

NOTE: Points assume Major Medical contains Minnesota Qualified Plan Number 3 benefits. Adjust for benefits not included and for variation in coinsurance.

23. Superimposed Major Medical Plans — 80/20 Coinsurance — Over Basic Health Plans With 800 or More Points.

Deductible:	Add to Basic Plan Points			
	Calendar Year Plan		2 Year Benefit Period Plan	
	Individual	2 × Family	Individual	2 × Family
A. Corridor				
$ 50	505	535	515	525
100	445	475	455	465
150	405	435	415	425
200	365	395	375	385
500	205	235	215	225

B. Integrated				
$ 500	505	525	530	550
1,000	405	415	420	430

NOTE: Points assume Major Medical contains Minnesota Qualified Plan Number 3 benefits. Adjust for benefits not included and for variation in coinsurance.

24. Limit on "Out of Pocket" Expenses (i.e., maximum Co-payment and Deductible per benefit year) — Comprehensive and Superimposed Major Medical Plans.

Out of Pocket Limit	Deductible: Coinsurance.	$50 20%	$150 20%	$500* 20%	$1,000 20%
$ 500		80	100	200	—
1,000		36	40	55	60
3,000		20	20	22	25
5,000		10	10	11	13
10,000		5	5	5	6

*Use this column for Superimposed Major Medical Plans

25. Major Medical Maximum (Comprehensive and Superimposed Plans).

Maximum	Add (+) or Subtract (−)
$ 10,000	−50
20,000	−40
50,000	−20
100,000	− 7
250,000	0
Unlimited	+ 5

26. Coordination and Non-Duplication of Benefits (All Plans)	Deduct the Following Percentage of Total Points Before Crediting Points For Deductible and Coinsurance
a. With other health plans	4.0%
b. With No Fault	2.5%
c. With both a. and b.	6.5%
d. With *neither*	0

TABLES OF EQUIVALENT POINTS FOR MEDICARE SUPPLEMENT

27. Hospital Room and Board and Extras

During a spell of illness, Medicare Part A pays all expenses except for the deductible and coinsurance amounts for hospital services during the first 90 days of hospitalization. If hospitalization continues, Medicare will pay the expenses greater than the coinsurance amount until the life-time reserve of 60 days is reached.

Use the following procedure to obtain the Equivalent Point value for a benefit which pays a certain amount if the individual is hospitalized a specified number of days.

a. Multiply the benefits provided by the policy by the appropriate adjustment factors given below and sum.

b. Calculate value of Medicare Deductible and Coinsurance — Multiply the current Medicare deductible and coinsurance amounts by the appropriate adjustment factors and sum. (Calculated below for July 1, 1976 deductible and coinsurance — recalculate each time Medicare changes deductible and coinsurance.)

c. Divide the value from step (a) by step (b).

d. Multiply step (c) by 23.78

	Value of July 1, 1976 Medicare Deductible and Coinsurance		
Days In Hospital	Adjustment Factor	Medicare Deductible and Coinsurance	Value
1	09.59	$104	997.36
2-60	83.56	0	0.00
61-90	1.50	26	39.00
91-150	.61	52	31.72
151	1.02	0	0.00
Total			1068.08

Since the Medicare Deductible and Coinsurance provisions change annually, policies using the defined benefit approach should be re-evaluated annually.

If the policy does not pay a defined benefit during hospitalization but pays all usual and customary charges for hospital inpatient services not paid by Medicare, then use 23.78 and 2.35 as the Equivalent Point value for the benefits providing for the Medicare Deductible and Coinsurance amounts and for the benefits not covered by Medicare respectively.

28. Skilled Nursing Facility

Medicare Part A pays the usual and customary expenses of a qualified Skilled Nursing Facility exclusive of a coinsurance amount after twenty days of confinement up to a maximum of 100 days per spell of illness.

Payment of the Coinsurance Amount (currently $13) up to 100 days	3.50
Payment of reasonable and customary expenses 100 to 120 days	.30
Payment of reasonable and customary expenses after the 120th day	.10

29. Blood

Medicare does not pay for the first 3 pints of blood while in the hospital. If the policy covers this, then the Equivalent Point value is .15.

30.

Surgery	Assistant Surgeon Included	Anesthesia Included	Anesthesia Not Included
Prevailing Fee*	No	48.70	43.60
Deduct for each "1.00 per 1964 CRVS Unit" less than Prevailing Fee		5.05	4.60
Prevailing Fee*	Yes	50.45	45.78
Deduct for each "$1.00 per 1964 CRVS Unit" less than Prevailing Fee		5.05	4.60

*Equivalent to $9.00 factor on the 1964 CRVS

31. Physician Care — Home and Office

	First Visit Accident	
	First Visit Sickness	Third Visit Sickness
Unlimited	104.46	74.50

32. Physician Care — Hospital

Maximum Number of Visits	Prevailing Fee at Average 14.50/Day/Visit	Deduct for each 1.00 Per Day Per Visit Less than Prevailing Fee
31	17.51	1.21
70	19.10	1.32
120	20.30	1.40
365	21.46	1.48
Unlimited	22.70	1.57

33. Home Health Care*

Maximum Visits Year	
180 or More	3.75
Less than 180	0

*Excludes Home Health Care after individual is discharged from a hospital after a stay of at least 3 days.

34. Diagnostic X-Ray and Laboratory (Outpatient or out of hospital)

	Scheduled	Unscheduled
Unlimited	40.60	57.58

35. Radioactive Therapy (Outpatient or out of hospital)

Scheduled	3.00
Unscheduled	5.00

36. Drugs and Medicines (Outpatient or out of hospital)

Deductible Per Prescription	
2.00	30.00
1.00	38.75
None	48.67

37. Private Duty Nursing (Either RN or LPN) 5.00

38. Miscellaneous (In Clinic or as Outpatient) 1.48

a. Physical Therapy
b. Oxygen
c. Prostheses
d. Durable Medical Equipment (Rental or Purchase)

39. Medicare Part B Payments

Deduct 158.89

40. Medicare Part B Deductible ($60)

Deduct if not eligible 28.50

41. Comprehensive Major Medical Plans

Type	Equivalent Points
a. With C.O.B. against Medicare A and B. Maximum of $50,000 or more. Deductible of $100 or less, and Coinsurance of 20% or less.	100
b. Other, including "Medicare Carve Out" Plans *File with Commissioner.	

EXAMPLE I

Use of Actuarial Equivalence Test
Minnesota Comprehensive Health Insurance Act of 1976

I. Question: Is the following Plan actuarially equivalent to any Minnesota Qualified Plan?

Deductible:	$100
Coinsurance:	80/20
Maximum:	$10,000
Maternity:	Any Complications
Student Dependents:	To 23
Limits on Specified Benefits:	Outpatient Mental limited to Minnesota Required Benefits
Excluded Care:	Home Health Care
Out of Pocket Limit:	$5,000 per year
Coordination of Benefits	Yes, but no COB with No-Fault

II. Answer (calculated January 1, 1977). Test result is 919 points
This Plan is a Minnesota Qualified Plan Number 2.

Plan Name Comprehensive Plan Plan No. Example I.

WORKSHEET

Test for Actuarial Equivalence
Minnesota Comprehensive Health Insurance Act of 1976

A. Other than Medicare Supplement Plans

Table	Benefit	Basic	Major Medical Superimposed	Major Medical Comprehensive
21-23	Superimposed Major Medical	XXX		XXX
1.	Hospital Room and Board			395
2.	Hospital Extras			485
3.	Surgery			240
4.	Physician Care — Home, Office			210
5.	Physician Care — Hospital			55
15-18	Benefits In Full			—
6.	Maternity			25
7.	Diagnostic X-Ray and Lab			90
8.	Drugs and Medicine			90
9.	Emergency/Supplemental Accident			0
10.	Radioactive Therapy			15
12.	Nursing/Convalescent Facility			20
13.	Home Health Care			0
14.	Physical Therapy			10
14.	Oxygen			5
14.	Prostheses			5
14.	Durable Medical Equipment			5
11.	Student Dependents			4
24.	Limit on Out of Pocket			10
25.	Maximum Benefit	XXX		-50
XX.	Subtotal			1614
26.	COB/No-Fault			-65
19-20	Coinsurance/Deductible	XXX		-630
XX.	Total			919
XX.	Combined Basic and Superimposed		XXX	XXX

Equivalent to Minnesota Qualified Plan Number 2 Non-Qualified ☐

Date _____ By _____

EXAMPLE II
Use of Actuarial Equivalence Test
Minnesota Comprehensive Health Insurance Act of 1976

I. Question: Is the following Plan actuarially equivalent to any Minnesota Qualified Plan?

Hospital:	$70 per day, 365 days, $2,000 Extras
Surgery:	$7 CRVS, an assistant surgeon
In Hospital Physicians Calls:	$10 per day, 365 days
Maternity	Specified complications only
Coordination of Benefits	No

II. Answer (calculated January 1, 1977): Test result is 1016 points.

This Plan is a Minnesota Qualified Plan Number 3.

Plan Name Basic Plan Plan No. Example II

WORKSHEET

Test for Actuarial Equivalence
Minnesota Comprehensive Health Insurance Act of 1976

A. Other than Medicare Supplement Plans

Table	Benefit	Basic	Major Medical Superimposed	Major Medical Comprehensive
21-23	Superimposed Major Medical	XXX		XXX
1.	Hospital Room and Board	336		
2.	Hospital Extras	450		
3.	Surgery	180		
4.	Physician Care — Home, Office	30		
5.	Physician Care — Hospital	20		
15-18	Benefits In Full			
6.	Maternity			
7.	Diagnostic X-Ray and Lab			
8.	Drugs and Medicine			
9.	Emergency/Supplemental Accident			
10.	Radioactive Therapy			
12.	Nursing/Convalescent Facility			
13.	Home Health Care			
14.	Physical Therapy			
14.	Oxygen			
14.	Prostheses			
14.	Durable Medical Equipment			
11.	Student Dependents			
24.	Limit on Out of Pocket			
25.	Maximum Benefit	XXX		
XX.	Subtotal			
26.	COB/No-Fault			
19-20	Coinsurance/Deductible	XXX		
XX.	Total	1016		
XX.	Combined Basic and Superimposed		XXX	XXX

Equivalent to Minnesota Qualified Plan Number 3 Non-Qualified ☐

Date _____ By _____

EXAMPLE III

Use of Actuarial Equivalence Test
Minnesota Comprehensive Health Insurance Act of 1976

I. Question: Is the following Plan actuarially equivalent to any Minnesota Qualified Plan?

Hospital: $30 per day, 70 days, $500 Extras
Surgery: $420 Intercompany
Superimposed Major Medical:

Deductible $100 corridor
Coinsurance: 80/20
Maximum: $10,000
Maternity Any complications
Student Dependents: No
Out of Pocket Limit: None
Excluded Care: Home Health Care
Nursing Home Care

Limits on Specified Benefits:	Maximum Eligible Charges as follows:
1. Room & Board	$50. less Basic Benefit
2. Hospital Extras:	$2,000 less Basic Benefit
3. Surgery:	$7.00 per CRVS unit.
Coordination of Benefits	yes, including No/Fault

II. Answer (calculated January 1, 1977): Test result is 611 points.

This Plan is a Minnesota Qualified Plan Number 1.

Plan Name Basic and Superimposed Plan No. Example III

WORKSHEET

Test for Actuarial Equivalence
Minnesota Comprehensive Health Insurance Act of 1976

A. Other than Medicare Supplement Plans

			Major Medical	
Table	Benefit	Basic	Superimposed	Comprehensive
21-23	Superimposed Major Medical	XXX	665	XXX
1.	Hospital Room and Board	135	-143 (3.1 times 46)	
2.	Hospital Extras	335	-95 (402 less 305)	
3.	Surgery	85	-50 (2 times 25)	
4.	Physician Care — Home, Office			
5.	Physician Care — Hospital			
15-18	Benefits In Full			
6.	Maternity		-175 (200 less 25)	
7.	Diagnostic X-Ray and Lab			
8.	Drugs and Medicine			
9.	Emergency/Supplemental Accident			
10.	Radioactive Therapy			
12.	Nursing/Convalescent Facility		-20	
13.	Home Health Care		-10	
14.	Physical Therapy			
14.	Oxygen			
14.	Prostheses			
14.	Durable Medical Equipment			
11.	Student Dependents		-4	
24.	Limit on Out of Pocket		-20	
25.	Maximum Benefit	XXX	-50	
XX.	Subtotal	555	98	
26.	COB/No-Fault	-36	-6	
19-20	Coinsurance/Deductible	XXX		
XX.	Total	519	92	
XX.	Combined Basic and Superimposed	611	XXX	XXX

Equivalent to Minnesota Qualified Plan Number 1 Non-Qualified ☐

Date _____ By _____

EXAMPLE IV

Use of Actuarial Equivalence Test
Minnesota Comprehensive Health Insurance Act of 1976

I. Question: Is the following Plan actuarially equivalent to any Minnesota Qualified Plan?

Hospital:	First $3,000 of all Hospital Charges in Full
Surgery:	$420 Intercompany
Emergency Accident:	$25
Superimposed Major Medical:	
Deductible:	$500 Integrated
Coinsurance:	80/20
Maximum:	$25,000
Maternity:	Full
Student Dependents:	No
Out of Pocket Limits	None
Excluded Care:	Home Health Care
Coordination of Benefits:	Yes, Other Health and No Fault Plans

II. Answer: (Calculated January 1, 1977). Test result is 1290 points.

This Plan is a Minnesota Qualified Plan Number 3.

Plan Name Basic With Benefits In Full and Comprehensive Plan No. Example IV

WORKSHEET

Test for Actuarial Equivalence
Minnesota Comprehensive Health Insurance Act of 1976

A. Other than Medicare Supplement Plans

Table	Benefit	Basic	Major Medical Superimposed	Major Medical Comprehensive
21-23	Superimposed Major Medical	XXX	615	XXX
1.	Hospital Room and Board			
2.	Hospital Extras			
3.	Surgery	85		
4.	Physician Care — Home, Office			
5.	Physician Care — Hospital			
15-18	Benefits In Ful	741 (710 plus 33% of 95)		
6.	Maternity			
7.	Diagnostic X-Ray and Lab-			
8.	Drugs and Medicine			
9.	Emergency/Supplemental Accident	10		
10.	Radioactive Therapy			
12.	Nursing/Convalescent Facility			
13.	Home Health Care		-10	
14.	Physical Therapy			
14.	Oxygen			
14.	Prostheses			
14.	Durable Medical Equipment			
11.	Student Dependents		- 5	
24.	Limit on Out of Pocket		-22	
25.	Maximum Benefit	XXX	-35	
XX.	Subtotal	836	543	
26.	COB/NoFault	-54	-35	
19-20	Coinsurance/Deductible	XXX		
XX.		782	508	508
XX.	Combined Basic and Superimposed	1290	XXX	XXX

Equivalent to Minnesota Qualified Plan Number 3 Non-Qualified ☐

Date _____ By _____

EXAMPLE V.

Use of Actuarial Equivalence Test
Minnesota Comprehensive Health Insurance Act of 1976

I. Question: Is the following Plan actuarially equivalent to a Minnesota Qualified Medicare Supplement Plan?

Hospital Benefit	$100 first day $21 61 to 90 days
Skilled Nursing Home	$13 100 days
Blood	3 pints in hospital
Surgery	$1.50 CRVS with anesthesia, no assistant surgeon
Physician Care — In Hospital	$4 per day, 90 days
Drugs and Medicines	$2 deductible per prescription

II. Answer: (calculated January 1, 1977): Test result is 72.1 points. This Plan is not a Minnesota Qualified Medicare Supplement Plan.

Plan Name Medicare Supplement Plan No. Example V

WORKSHEET

Test for Actuarial Equivalence
Minnesota Comprehensive Health Insurance Act of 1976

B. Medicare Supplement Plan

Table	Benefit	Days	Daily Benefit	Factor	Product	
27.	Hospital — Defined daily benefit					
		1	100	9.59	959.00	
		2-60	0	83.56		
		61-90	26	1.50	39.00	
		91-150		.61		
		151 & Over		1.02		
		Total	XXX		998.00	
	Divisor				1068.08	
	Quotient				.9344	
	Multiplier				23.78	
	Product					22.22
27.	Hospital — Usual and customary charges not paid by Medicare					
	A. Medicare Deductible and Coinsurance					
	B. Benefits not covered by Medicare					
28.	Skilled Nursing Facility					3.50
29.	Blood					.15
30.	Surgery					10.82
31.	Physician Care — Home and Office					
32.	Physician Care — Hospital					5.41
33.	Home Health Care					
34.	Diagnostic X-Ray and Laboratory					
35.	Radioactive Therapy					
36.	Drugs and Medicine					30.00
37.	Private Duty Nursing					
38.	Miscellaneous					
41.	Comprehensive Major Medical					

XX. Subtotal	72.10
39. Medicare Part B Payments	
40. Medicare Part B Deductible not Eligible	
XX. Total	72.10

Equivalent to Minnesota Qualified Medicare Supplement Plan: Yes ☐ No ☒

Date _____ By _____

EXAMPLE VI

Use of Actuarial Test
Minnesota Comprehensive Health Insurance Act of 1976

I. Question: Is the following Plan actuarially equivalent to a Minnesota Qualified Medicare Supplement Plan?

Benefit: (a) 100% of reasonable and customary hospital and nursing home expenses in excess of Medicare Part A.

(b) 20% of reasonable and customary charges for medical services after $60 deductible applied to expenses eligible under Part B of Medicare.

II. Answer (Calculated January 1, 1977): Test result is 84.3 points.

The Plan is not Qualified.

Plan Name Medicare Supplement Plan No. Example VI

WORKSHEET

Test for Actuarial Equivalence
Minnesota Comprehensive Health Insurance Act of 1976

B. Medicare Supplement Plan

Table Benefit

27. Hospital — Defined daily benefit

Days	Daily Benefit	Factor	Product
1		9.59	
2-60		83.56	
61-90		1.50	
91-150		.61	
151 & Over		1.02	
Total	XXX		
Divisor			
Quotient			
Multiplier			23.78
Product			

27.	Hospital — Usual and customary charges not paid by Medicare	
	A. Medicare Deductible and Coinsurance	23.78
	B. Benefits not covered by Medicare	2.35
28.	Skilled Nursing Facility	3.90
29.	Blood	.15
30.	Surgery	10.09 (=20%)
31.	Physician Care — Home and Office	20.89 (=20%)
32.	Physician Care — Hospital	4.54 (=20%)
33.	Home Health Care	.75 (=20%)
34.	Diagnostic X-Ray and Laboratory	11.52 (=20%)

35.	Radioactive Therapy	1.00 (=20%)
36.	Drugs and Medicine	9.73 (=20%)
37.	Private Duty Nursing	1.00 (=20%)
38.	Miscellaneous	.30 (=20%)
41.	Comprehensive Major Medical	
XX.	Subtotal	90 00
39.	Medicare Part B Payments	
40.	Medicare Part B Deductible Not Eligible	-5.70 (=20%)
XX.	Total	84.30

Equivalent to Minnesota Qualified Medicare Supplement Plan: Yes ☐ No ☒

Date _____ By _____

MINNESOTA CODE OF AGENCY RULES

RULES OF THE DEPARTMENT OF COMMERCE

1982 Reprint

All rules as in effect on September 15, 1982

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For Table of Contents See Volume 11A.

Real Estate

REPR 97

4 MCAR S 1.41500 Definitions.

A. Applicability. For the purposes of 4 MCAR SS 1.41501-1.41552, the terms defined in this rule have the meanings given them.

B. Commissioner. "Commissioner" means the Commissioner of Securities and Real Estate.

C. Licensee. "Licensee" means a person duly licensed under Minnesota Statutes, chapter 82.

D. Loan broker. "Loan broker" means a licensed real estate broker or salesperson who for another and for a commission, fee, or other valuable consideration or with the intention or expectation of receiving the same (1) directly or indirectly negotiates or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance on real estate or (2) represents himself or herself or otherwise holds himself or herself out as a licensed real estate broker or salesperson (a) in connection with any transaction in which he or she directly or indirectly negotiates or offers or attempts to negotiate a loan or (b) in connection with the conduct of his or her ordinary business activities as a loan broker.

"Loan broker" does not include a licensed real estate broker or salesperson who, in the course of representing a purchaser or seller of real estate, incidentally assists the purchaser or seller in obtaining financing for the real property in question if the licensee does not receive a separate commission, fee, or other valuable consideration for this service.

E. Overpayment. "Overpayment" means any payment of moneys in excess of a statutory fee or for a license for which a person does not qualify.

F. Override clause. "Override clause" means a provision in a listing agreement or similar instrument allowing the broker to receive a commission when the property is sold after the listing agreement has expired to persons with whom a broker or salesperson had negotiated or exhibited the property prior to the expiration of the listing agreement.

G. Person. "Person" means a natural person, firm, institution, partnership, corporation, or association.

H. Primary broker. "Primary broker" means the broker on whose behalf salespersons are licensed to act pursuant to Minnesota Statutes, section 82.20, subdivision 6. In the case of a corporation licensed as a broker, "primary broker" means each officer of the corporation who is individually licensed to act as a broker for the corporation. In the case of a

partnership, "primary broker" means each partner licensed to act as a broker for the partnership.

I. Property. "Property" means real property or other property within the scope of Minnesota Statutes, chapter 82, unless the context clearly indicates otherwise.

J. Protective list. "Protective list" means the written list of names and addresses of prospective purchasers with whom a licensee has negotiated the sale or rental of the property or to whom a licensee has exhibited the property prior to the expiration of the listing agreement. For the purposes of this paragraph "property" means the property which is the subject of the listing agreement in question.

K. Rental service. "Rental service" means a person who gathers and catalogs information concerning apartments or other units of real estate available for rent, and who, for a fee, provides information intended to meet the individual needs of specifically identified lessors or prospective lessees. This term shall not apply to newspapers or other periodicals with a general circulation or individual listing contracts between an owner or lessor of property and a licensee.

L. School. "School" means a person offering or providing real estate education.

REPR 97

4 MCAR S 1.41501 Payment of fees.

A. Cash not accepted. All fees shall be paid by check, draft, or other negotiable or non-negotiable instrument or order of withdrawal which is drawn against funds held by a financial institution. Cash will not be accepted.

B. Overpayment of fees. An overpayment of a fee paid pursuant to Minnesota Statutes, chapter 82 shall be refunded within a reasonable time after a letter requesting the refund is received by the commissioner and signed by the person making the overpayment.

Refunds shall not be given for other than overpayment of fees. A request for a refund of an overpayment must be received by the commissioner within six months of the date of deposit or it will be forfeited.

REPR 97

4 MCAR S 1.41502 Passing grade. A passing grade for a salesperson's and broker's examination shall be a score of 75 percent or higher on the uniform portion and a score of 75 percent or higher on the state portion of the examination.

The commissioner shall not accept the scores of a person who has cheated on an examination. Cheating on a real estate examination shall be grounds for denying an application for a broker's or salesperson's license.

REPR 97

4 MCAR S 1.41503 License.

A. Application for broker's license. After successful completion of the real estate broker's examination, an individual shall have one year from the date of the examination to apply for a broker's license, unless the individual is a salesperson who remains continuously active in the real estate field as a licensee. Failure to apply for the broker's license or to remain continuously active in the real estate field will necessitate a reexamination.

An individual who holds a broker's license in his or her own name or for or on behalf of a corporation or partnership shall be issued an additional broker's license only upon demonstrating: (1) that the additional license is necessary in order to serve a legitimate business purpose; (2) that he or she will be capable of supervising all salespersons over whom he or she will have supervisory responsibility or, in the alternative, that he or she will have no supervisory responsibilities under the additional license; and (3) that he or she has a substantial ownership interest in each corporation or partnership for or on whose behalf he or she holds or will hold a broker's license.

The requirement of a substantial ownership interest shall not apply where the broker seeking the additional license or licenses is an officer of a corporation for or on whose behalf he or she already holds a license and he or she is applying for the additional license or licenses for or on behalf of an affiliated corporation or corporations of which he or she is also an officer. For the purpose of this rule "affiliated corporation" means a corporation which is directly or indirectly controlled by the same "persons" as the corporation for or on whose behalf he or she is already licensed to act.

For the purposes of this rule a legitimate business purpose includes engaging in a different and specialized area of real estate or maintaining an existing business name.

B. Cancellation of a salesperson's or broker's license. A salesperson's or broker's license which has been cancelled for failure of a licensee to complete post-licensing education requirements must be returned to the commissioner by the licensee's broker within ten days of receipt of notice of cancellation. The license shall be reinstated without reexamination by completing the required instruction, filing an application, and paying the fee for a salesperson's or broker's license within one year of the cancellation date.

C. Waivers. The commissioner may waive the real estate licensing experience requirement for the broker's examination.

1. An applicant for a waiver shall provide evidence of:

a. Successful completion of a minimum of 90 quarter credits or 270 classroom hours of real estate-related studies;

b. A minimum of five consecutive years of practical experience in real estate-related areas; or

c. Successful completion of 30 credits or 90 classroom hours and three consecutive years of practical experience in real estate-related areas.

2. A request for a waiver shall be submitted to the commissioner in writing and be accompanied by documents necessary to evidence qualification as set forth in 1.

3. The waiver will lapse if the applicant fails to successfully complete the broker's examination within one year from the date of the granting of the waiver.

4 MCAR S 1.41505 Trust funds.

REPR 97

A. Listing broker. Unless otherwise agreed upon in writing by the parties to a transaction, the broker with whom trust funds are to be deposited in satisfaction of Minnesota Statutes, section 82.24, subdivision 1 shall be the listing broker.

B. Maintenance. Trust funds shall be maintained in a trust account until disbursement is made in accordance with the terms of the applicable agreements and proper accounting is made to the parties entitled to an accounting.

Disbursement shall be made within a reasonable time following the consummation or termination of a transaction if the applicable agreements are silent as to the time of disbursement.

C. Consent to place in special account. Trust funds may be placed by the broker in a special account, which may be an interest-bearing account or certificate of deposit if the buyer and the seller consent in writing to the special account and to the disposition of the trust funds, including any interest thereon.

D. Licensee as principal. Funds which would constitute trust funds if received by a licensee acting as an agent must, if received by a licensee acting as principal, be placed in a trust account unless a written agreement signed by all parties to the transaction specifies a different disposition of the funds. The written agreement shall state that the funds would otherwise be placed in a real estate trust account.

REPR 97

4 MCAR S 1.41506

A. Trust account records.

1. Every broker shall keep a record of all trust funds received, including notes, savings certificates, uncashed or uncollected checks, or other similar instruments. Said records

shall set forth:

a. date funds received;

b. from whom received;

c. amount received;

d. with respect to funds deposited in a trust account the date of said deposit;

e. with respect to funds previously deposited in a trust account, the check number or date of related disbursements;

f. a monthly balance of the trust account.

Each broker shall maintain a formal trust cash receipts journal and a formal cash disbursement journal, or similar records, in accordance with generally accepted accounting principles. All records and funds shall be subject to inspection by the commissioner or his agent at any time.

2. Each broker shall keep a separate record for each beneficiary or transaction, accounting for all funds therein which have been deposited in the brokers trust bank account. These records shall set forth information sufficient to identify the transaction and the parties thereto. At a minimum, each such record shall set forth:

a. the date funds are deposited;

b. the amount deposited;

c. the date of each related disbursement;

d. the check number of each related disbursement;

e. the amount of each related disbursement;

f. a description of each disbursement.

3. A check received from the potential buyer shall be deposited into the listing broker's trust account not later than the next business day after delivery of the check to the broker except that the check may be held by the listing broker until acceptance or rejection of the offer if:

a. the check by its terms is not negotiable by the broker or if the potential buyer has given written instructions that the check shall not be deposited nor cashed until acceptance or shall be immediately returned if the offer is rejected; and

b. the potential seller is informed that the check is being so held before or at the time the offer is presented to him for acceptance.

If the offer is accepted, the check shall be deposited in a neutral escrow depository or the trust fund account of the listing broker not later than the next business day following acceptance of the offer unless said broker has received written authorization from all parties to the transaction to continue to hold the check. If the offer is rejected, the check shall be returned to the potential buyer not later than the next business day after rejection.

4 MCAR S 1.41507

REPR 97

A. Non-depositable items. In the event earnest money or other down payments are received by the broker or salesman in the form of a non-depositable item such as a note, bond, stock certificate, treasury bill or any other item of value taken in lieu of cash, a receipt shall be issued to the buyer for the value thereof and such items shall be deposited immediately with an authorized escrow agent.

In the event the broker acts as the escrow agent, he shall obtain written authority from the buyer and seller to hold such items in escrow. In all cases the parties shall be advised of the details relative to the non-depositable item, including the nature of the item, the amount, and in whose custody such item is being held. The fact that such an item is being held by the broker shall be duly recorded in the brokers trust account records.

4 MCAR S 1.41510 Computation of time.

A. Where the performance or doing of any act, duty, matter, payment, or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law, rule or order, such time, except as otherwise provided in B. below, shall be computed so as to exclude the first and include the last day of any such prescribed or fixed period or duration of time. When the last day of such period falls on Sunday or on any day made a legal holiday, by the laws of this state or of the United States, such day shall be omitted from the computation.

B. When the lapse of a number of months before or after a certain day is required by law, rule or order, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

REPR 97

4 MCAR S 1.41513

A. Unclaimed property act. Upon the initial application for a real estate broker's license and upon each annual application for renewal, the applicant or broker shall be required to inform the commissioner of securities that he has complied with the requirements set forth in Minnesota Statutes, chapter 345 relating to unclaimed property.

4 MCAR S 1.41514 Loan brokers; standards of conduct. Loan brokers shall comply with the requirements of A.-F.

A. Contract provisions. A loan broker shall enter into a written contract with each customer and shall provide a copy of the written contract to each customer at or before the time of receipt of any fee or valuable consideration paid for loan brokerage services. The written contract shall:

1. Identify the escrow account into which the fees or consideration will be deposited;

2. Set forth the circumstances under which the loan broker will be entitled to disbursement from the escrow account;

3. Set forth the circumstances under which the customer will be entitled to a refund of all or part of the fee;

4. Specifically describe the services to be provided by the loan broker and the dates by which the services will be performed;

5. State the maximum rate of interest to be charged on any loan obtained;

6. Contain a statement which notifies the customer of his or her rights to cancel the contract pursuant to B.;

7. Disclose, with respect to the 12-month period ending ten business days prior to the date of the contract in question, the percentage of the loan broker's customers for whom loans have actually been funded as a result of the loan broker's services. This disclosure need not be made for any period prior to the effective date of this rule; and

8. Disclose the cancellation rights and procedures set forth in B.

B. Cancellation. Any customer of a loan broker who pays a fee prior to the time a loan is actually funded shall have an unconditional right to rescind the contract for loan brokerage services at any time until midnight of the third business day after the day on which the contract is signed. Cancellation is evidenced by the customer giving written notice of cancellation to the loan broker at the address stated in the contract. Notice of cancellation, if given by mail, is effective upon deposit in a mailbox properly addressed to the loan broker with postage prepaid. Notice of cancellation need not take a

particular form and is sufficient if it indicates by any form of written expression the intention of the customer not to be bound by the contract. No act of a customer of a loan broker shall be effective to waive the right to rescind as provided in this paragraph.

C. Escrow account. The loan broker shall deposit in an escrow account within 48 hours all fees received prior to the time a loan is actually funded. The escrow account shall be in a bank located within the State of Minnesota and shall be controlled by an unaffiliated accountant, lawyer, or bank officer or employee.

D. Records. The loan broker shall maintain a separate record of all fees received for services performed or to be performed as a loan broker. Each record shall set forth the date funds are received; the person from whom the funds are received; the amount received; the date of deposit in the escrow account; the account number; the date the funds are disbursed and the check number of the disbursement; and a description of each disbursement and the justification for the disbursement.

E. Monthly statement. The loan broker shall provide to each customer at least monthly a detailed written accounting of all disbursements of the customer's funds from the trust account.

F. Disclosure of lenders. The loan broker shall provide to each customer at the expiration of the contract a list of the lenders or loan sources to whom loan applications were submitted on behalf of the customer.

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4 MCAR S 1.41515 Standards of conduct. The methods, acts, or practices set forth in 4 MCAR SS 1.41516-1.41526 are standards of conduct governing the activities of real estate brokers and salespersons under Minnesota Statutes, chapter 82. Failure to comply with these standards shall constitute grounds for license denial, suspension, or revocation or for censure of the licensee.

4 MCAR S 1.41516 Responsibilities of brokers.

A. Supervision of personnel. Brokers shall adequately supervise the activities of their salespersons and employees. Supervision includes the on-going monitoring of listing agreements, purchase agreements, other real estate-related documents which are prepared or drafted by the broker's salespersons or employees or which are otherwise received by the broker's office, and the review of all trust account books and records. If an individual broker maintains more than one place of business, each place of business shall be under the broker's direction and supervision. If a partnership or corporate broker maintains more than one place of business, each place of business shall be under the direction and supervision of an individual broker licensed to act on behalf of the partnership or corporation.

The primary broker shall maintain records specifying the name of each broker responsible for the direction and supervision of each place of business. If an individual broker, who may be the primary broker, is responsible for supervising more than one place of business, the primary broker shall, upon written request of the commissioner, file a written statement specifying the procedures which have been established to assure that all salespersons and employees are adequately supervised. Designation of another broker to supervise a place of business does not relieve the primary broker of the ultimate responsibility for the actions of licensees.

B. Preparation and safekeeping of documents. Brokers shall be responsible for the preparation, custody, safety, and accuracy of all real estate contracts, documents and records, even though another person may be assigned these duties by the broker.

C. Documentation and resolution of complaints. Brokers shall investigate and attempt to resolve complaints made regarding the practices of any individual licensed to them and shall maintain, with respect to each individual licensed to them, a complaint file containing all material relating to any complaints received in writing for a period of three years.

D. Disclosure of listed property information. No broker shall allow any unlicensed person to disclose any information regarding a listed property except to state the address of the property and whether it is available for sale or lease.

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4 MCAR S 1.41517 Temporary broker's permit. In the event of death or incapacity of a broker, the commissioner may issue a 45-day temporary permit to an individual who has had a minimum of two years actual experience as a licensed real estate salesperson and who is otherwise reasonably qualified to act as a broker. Upon application prior to its expiration, the 45-day temporary permit shall be renewed once by the commissioner if the applicant demonstrates that he or she has made a good faith effort to obtain a broker's license within the preceding 45 days and an extension of time will not harm the public interest.

Only those salespersons licensed to the deceased or incapacitated broker at the time of death or incapacity may conduct business for or on behalf of the person to whom the temporary broker's license was issued.

4 MCAR S 1.41518 Licensee as agent of broker; disclosure. A salesperson shall only conduct business under the licensed name of and on behalf of the broker to whom he or she is licensed. An individual broker shall only conduct business under his or her licensed name. A broker licensed to a corporation or partnership shall only conduct business under the licensed corporate or partnership name. A licensee shall affirmatively disclose prior to the negotiation or consummation of any

transaction the licensed name of the broker under whom he or she is authorized to conduct business in accordance with this rule.

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4 MCAR S 1.41519 Listing agreements.

A. Requirement. Licensees shall obtain a signed listing agreement, or other written authorization, from the owner of real property or from another person authorized to offer the property for sale or lease prior to advertising to the general public that the real property is available for sale or lease.

For the purposes of this rule "advertising" shall include placing a sign on the owner's property which indicates that the property is being offered for sale or lease.

B. Contents. All listing agreements shall be in writing and shall include:

1. A definite expiration date;

2. A description of the real property involved;

3. The list price and any terms required by the seller;

4. The amount of any compensation or commission or the basis for computing the commission;

5. A clear statement explaining the events or conditions which will entitle a broker to a commission;

6. Information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the seller with a protective list within 72 hours after the expiration of the listing agreement; and

7. The following notice in not less than ten point boldface type immediately preceding any provision of the listing agreement relating to compensation of the licensee:

"NOTICE: THE COMMISSION RATE FOR THE SALE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND ITS CLIENT."

C. Prohibited provisions. Licensees shall not include in a listing agreement a holdover clause, automatic extension, or any similar provision, or an override clause the length of which is more than six months after the expiration of the listing agreement.

D. Override clauses. Licensees shall not seek to enforce an override clause unless a protective list has been furnished to the seller within 72 hours after the expiration of the listing agreement.

E. Protective lists. A broker or salesperson has the burden of demonstrating that each person on the protective list has, during the period of the listing agreement, either made an affirmative showing of interest in the property by responding to an advertisement or by contacting the broker or salesperson involved or has been physically shown the property by the broker or salesperson. For the purpose of this rule the mere mailing or other distribution by a licensee of literature setting forth information about the property in question does not, of itself, constitute an affirmative showing of interest in the property on the part of a subsequent purchaser.

The protective list shall contain the following notice in boldface type:

"IF YOU RELIST WITH ANOTHER BROKER WITHIN THE OVERRIDE PERIOD AND THEN SELL YOUR PROPERTY TO ANYONE WHOSE NAME APPEARS ON THIS LIST, YOU COULD BE LIABLE FOR FULL COMMISSIONS TO BOTH BROKERS. IF THIS NOTICE IS NOT FULLY UNDERSTOOD, SEEK COMPETENT ADVICE."

The protective list need not contain this notice if the written listing agreement specifically states that after its expiration the seller will not be obligated to pay the licensee a fee or commission if the seller has executed another valid listing agreement pursuant to which the seller is obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of the real property in question.

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4 MCAR S 1.41520 Guaranteed sale programs. If a broker advertises or offers a guaranteed sale program, or other program whereby the broker undertakes to purchase real property in the event he or she is unable to effectuate a sale to a third party within a specified period of time, a written disclosure which sets forth clearly and completely the general terms and conditions under which the broker agrees to purchase the property and the disposition of any profit at the time of resale by the broker must be provided to the seller prior to the execution of a listing agreement.

4 MCAR S 1.41521 Disclosure requirements.

A. Advertising. Each licensee shall identify himself or herself as either a broker or an agent in any advertising for the purchase, sale, lease, exchange, mortgaging, transfer, or other disposition of real property, whether the advertising pertains to his or her own property or the property of others.

B. Financial interests of licensee. Prior to the negotiation or consummation of any transaction, a licensee shall affirmatively disclose to the owner of real property that the licensee is a real estate broker or agent, and in what capacity the licensee is acting, if the licensee directly, or indirectly through a third party, purchases for himself or herself or

acquires, or intends to acquire, any interest in, or any option to purchase, the owner's property.

C. Material facts. Licensees shall disclose to any prospective purchaser all material facts pertaining to the property, of which the licensee is aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensee is aware.

D. Nonperformance of any party. If a licensee is put on notice by any party to a real estate transaction that the party will not perform in accordance with the terms of a purchase agreement or other similar written agreement to convey real estate, the licensee shall immediately disclose the fact of that party's intent not to perform to the other party or parties to the transaction. Whenever reasonably possible, the licensee shall inform the party who will not perform of the licensee's obligation to disclose this fact to the other party or parties to the transaction prior to making the disclosure. The obligation required by this rule shall not apply to notice of a party's inability to keep or fulfill any contingency to which the real estate transaction has been made subject.

4 MCAR S 1.41522 Prohibition on guaranteeing future profits. Licensees shall not, with respect to the sale or lease of real property, guarantee or affirmatively encourage another person to guarantee future profits or earnings which may result from the purchase or lease of the real property in question unless the guarantee and the assumptions upon which it is based are fully disclosed and contained in the contract, purchase agreement, or other instrument of sale or lease.

4 MCAR S 1.41523 Negotiations.

A. Written offers. All written offers to purchase or lease shall be promptly submitted in writing to the seller or lessor.

B. Nondisclosure of terms of offer. A licensee shall not disclose the terms of an offer to another prospective buyer or the buyer's agent prior to the presentation of the offer to the seller.

C. Closing costs. Licensees shall disclose to a buyer or a seller at or before the time an offer is written or presented that the buyer or seller may be required to pay certain closing costs, which may effectively reduce the proceeds from the sale or increase the cash outlay at closing.

D. Required documents. Licensees shall furnish to the parties to the transaction at the time the documents are signed or become available a true and accurate copy of listing agreements, earnest money receipts, purchase agreements, contracts for deed, option agreements, closing statements,

truth-in-housing forms, energy audits, and any other record, instrument, or document which is material to the transaction and which is in the licensee's possession.

E. Closing statement. The listing broker or his or her designee shall deliver to the seller at the time of closing a complete and detailed closing statement setting forth all of the receipts and disbursements handled by the broker for the seller. The listing broker shall also deliver to the buyer at the time of closing a complete and detailed statement setting forth the disposition of all moneys received in the transaction from the buyer.

F. Exclusive agency agreements. A licensee shall not negotiate the sale, exchange, lease, or listing of any real property directly with the owner or lessor knowing that the owner or lessor has executed a written contract granting exclusive agency in connection with the property to another real estate broker. The licensee shall inquire of the owner or lessor whether such a contract exists.

G. Prohibition against interference with contractual relationships of others. Licensees shall not induce any party to a contract of sale or lease, option, or exclusive listing agreement, to breach the contract, option, or agreement.

H. Prohibition against discouraging use of attorney. Licensees shall not discourage prospective parties to a real estate transaction from seeking the services of an attorney.

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4 MCAR S 1.41524 Compensation.

A. Licensee to receive only from broker. A licensee shall not accept a commission or other valuable consideration for the performance of any acts requiring a real estate license from any person except the real estate broker to whom he is licensed or to whom he was licensed at the time of the transaction.

B. Undisclosed compensation. A licensee shall not accept, give, or charge any undisclosed commission or realize any direct or indirect remuneration which inures to the benefit of the licensee on an expenditure made for a principal.

C. Limitation on broker when transaction not completed. When the owner fails or is unable to consummate a real estate transaction, through no fault of the purchaser, the listing broker may not claim any portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser.

4 MCAR S 1.41525 Notice to the commissioner. Licensees shall notify the commissioner of the facts in A.-D.

A. Change of application information. The commissioner

shall be notified in writing of a change of information contained in the license application on file with the commissioner within ten days of the change.

B. Civil judgment. The commissioner shall be notified in writing within ten days of a final adverse decision or order of a court, whether or not the decision or order is appealed, regarding any proceeding in which the licensee was named as a defendant, and which alleged fraud, misrepresentation, or the conversion of funds, if the final adverse decision relates to the allegations of fraud, misrepresentation, or the conversion of funds.

C. Disciplinary action. The commissioner shall be notified in writing within ten days of the suspension or revocation of a licensee's real estate or other occupational license issued by this state or another jurisdiction.

D. Criminal offense. The commissioner shall be notified in writing within ten days if a licensee is charged with, adjudged guilty of, or enters a plea of guilty or nolo contendere to a charge of any felony, or of any gross misdemeanor alleging fraud, misrepresentation, conversion of funds or a similar violation of any real estate licensing law.

4 MCAR S 1.41526 Access to governing statutes and rules. Every real estate office and branch office shall have a current copy of Minnesota Statutes, chapters 82 and 83 and the rules adopted thereunder available for the use of licensees.

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4 MCAR S 1.41527 Rental services.

A. License. A rental service shall obtain a real estate broker's license prior to engaging in business or holding itself out as being engaged in business. No person shall act as a real estate salesperson on behalf of a rental service without first obtaining a real estate salesperson's license on behalf of the rental service.

B. Dissemination of unit information. A rental service shall not provide information regarding a rental unit without the express authority of the owner of the unit.

C. Availability of unit. A rental service shall not represent a unit as currently available unless its availability has been verified within 72 hours preceding the representation.

D. Advertising. A rental service shall not advertise in a manner which is misleading with regard to fees charged, services provided, the availability of rental units or rental terms or conditions.

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4 MCAR S 1.41528 Fraudulent, deceptive, and dishonest practices. For the purposes of Minnesota Statutes, section 82.27, subdivision 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

A. Act on behalf of more than one party to a transaction without the knowledge and consent of all parties;

B. Act in the dual capacity of licensee and undisclosed principal in any transaction;

C. Receive funds while acting as principal which funds would constitute trust funds if received by a licensee acting as an agent, unless the funds are placed in a trust account. Funds need not be placed in a trust account if a written agreement signed by all parties to the transaction specifies a different disposition of the funds, in accordance with 4 MCAR S 1.41505 D.;

D. Violate any state or federal law concerning discrimination intended to protect the rights of purchasers or renters of real estate;

E. Make a material misstatement in an application for a license or in any information furnished to the commissioner;

F. Procure or attempt to procure a real estate license for himself or herself or any person by fraud, misrepresentation, or deceit;

G. Represent membership in any real-estate related organization in which the licensee is not a member;

H. Advertise in any manner which is misleading or inaccurate with respect to properties, terms, values, policies, or services conducted by the licensee;

I. Make any material misrepresentation or permit or allow another to make any material misrepresentation;

J. Make any false or misleading statements, or permit or allow another to make any false or misleading statements of a character likely to influence, persuade, or induce the consummation of a transaction contemplated by Minn. Stat. ch. 82;

K. Fail within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to another;

L. Commingle with his or her own money or property trust funds or any other money or property of another held by the licensee;

M. Demand from a seller a commission to which the licensee is not entitled, knowing that he or she is not entitled thereto;

N. Pay or give money or goods of value to an unlicensed person for any assistance or information relating to the

procurement by a licensee of a listing of a property or of a prospective buyer of a property. This paragraph does not apply to money or goods paid or given to the parties to the transaction;

O. Fail to maintain a trust account at all times, as provided by law;

P. Engage, with respect to the offer, sale, or rental of real estate, in an anticompetitive activity.

A licensee shall be deemed to have violated this provision if he has been found to have violated the Minnesota Antitrust Law of 1971, Minnesota Statutes, sections 325D.49 to 325D.66 by a final decision or order of a court of competent jurisdiction.

Nothing in 4 MCAR S 1.41528 limits the authority of the commissioner to take actions against a licensee for fraudulent, deceptive, or dishonest practices not specifically described in this rule.

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4 MCAR S 1.41529 Salespersons; initial real estate education requirements.

A. Generally. An approved 90-hour course of initial education shall consist of three 30-classroom-hour courses to be designated as Course I, Course II, and Course III. Pursuant to Minnesota Statutes, section 82.22, subdivision 6, each applicant for a salesperson's license or salesperson is required to complete all courses successfully. Courses I, II, and III must be taken in sequence and may not be taken concurrently.

B. Salesperson's examination. Applicants must successfully complete the salesperson's examination within one year after the successful completion of Course I. After this date, credit for Course I will expire and successful completion of the first 30-hour course must be repeated before taking the salesperson's examination.

An exception will be made for students pursuing a full-time course of study in either a two-year or four-year real estate education program. The burden of demonstrating full-time status is on the student. Applicants must successfully complete the salesperson's examination within one year after the successful completion of the two-year or four-year course of study.

C. Application for salesperson's license. Applicants must apply for a salesperson's license within one year after successful completion of the licensing examination. Applicants who fail to apply for a license within the one-year period must retake Course I and successfully complete the examination.

D. Post-licensing education course. Courses II and III must be completed within one year after obtaining a salesperson's license.

E. Alternative means of completing initial education. Applicants may elect to complete Course II and Course III prior to examination or licensure and shall receive credit for those courses successfully completed if the applicant is otherwise in compliance with the time limitations set forth in B. and C.

F. Limitations on course substitutions. No course may be substituted for Course I.

Written requests for substitutions for Courses II and III shall be granted if the request is submitted no later than six months prior to the date upon which that education is due to be completed, if:

1. The salesperson is engaged exclusively in a specialized field, such as property management, and the course proposed to be substituted for Course II or III provides the student with at least 30 hours of instruction in that field; or

2. The salesperson demonstrates successful completion of a course in another jurisdiction which is substantially similar to Course II or III.

G. Limitation on use of certain education courses. Courses I and II may not be taken for credit towards a licensee's continuing education requirements.

Any Course III may be taken for credit towards a licensee's continuing education requirements if the licensee has not previously received credit for that course or a substantially similar course.

H. Textbooks required. Courses I, II, and III shall require the use of a textbook. The textbook shall cover substantially the subject matter of the course. The textbook shall be current and may be disallowed by the commissioner upon demonstration that it contains material errors.

I. Completion of initial education. Successful completion of Courses I, II and III includes full-time classroom attendance throughout the course, completion of required assignments or reading materials if applicable, and passage of an examination designed by the school which is sufficiently comprehensive to measure the student's knowledge of all aspects of the course.

J. Course I.

1. Hours. Course I shall incorporate the following number of hours for each of the following topics, for a total of 30 hours:

(a) Introduction to real estate, one hour;

(b) Real estate licensing law (Minnesota Statutes, chapters 82 and 83), four hours;

(c) Law of agency, four hours;

(d) Law of contracts, five hours;

(e) Real estate financing, six hours;

(f) Types and classifications of property, three hours;

(g) Examination of title, one hour; and

(h) Title closing, six hours.

2. Curriculum. The Course I curriculum shall be based on the following outline:

I. Introduction to real estate

A. Overview of Course I

1. Course goals

2. Attendance

3. Examination policy

4. Course and instructor evaluation

B. Scope of industry

C. Areas of specialization

D. Industry terminology

E. Professional standards and ethics

F. Broker-salesperson relationship

II. Real estate license law, (Minnesota Statutes, chapter 82), subdivided land sales practices act (Minnesota Statutes, chapter 83) and securities act (Minnesota Statutes, chapter 80A)

A. Real estate license law

1. Purpose of law and rules

2. Administration of law

3. Substantive provisions of law

a. Trust accounts

b. Prohibition of fraudulent, deceptive or dishonest practices

c. Standards of conduct

d. Federal and state antidiscrimination laws

e. Licensing requirements

f. Education requirements

g. Real estate education, research and recovery fund

B. Subdivided land sales practices act

1. Scope of law

2. Registration and public disclosure provisions

3. Licensing requirements

C. Securities act; potential applicability to real estate

III. Law of agency

A. Agent and agency

1. Broker-principal relationship

2. Termination of relationships

3. Dual agency

4. Cooperative broker

B. Duties of broker and agent

1. Accountability

2. Fiduciary responsibility to seller

3. Full disclosure

C. Listing contract

1. Types

2. Essential elements of a listing agreement

3. Multiple listing

4. Commissions earned

D. Responsibilities to buyer

IV. Contracts

A. Definition

1. Types
2. Essentials
3. Breach; remedies

B. Purchase agreements
1. Examination and analysis

C. Other types of contracts
1. Contract for deed
2. Options

D. Cancellation of contract

E. Property description
1. Lot and block number
2. Metes and bounds
3. Government survey
4. Datum planes
5. Measurement and mathematics

V. Real estate financing

A. Note as evidence of indebtedness

B. Sources of mortgage funds
1. Lenders
2. Secondary mortgage market
3. Owner financing

C. Mortgage
1. Legal elements
2. Theories
a. Lien
b. Title
3. Mortgage clauses
a. Covenants

1. Indebtedness

2. Insurance

3. Removal

4. Taxes

5. Acceleration clause

6. Warranty of title

b. Special clauses

1. Attorney's fees

2. Receiver

3. Sale in one parcel

4. Trust

5. Prepayment penalties

6. Subordination

7. Due-on-sale clause

8. Condemnation clause

9. Defeasance clause

10. Good repair

D. Types of mortgages

1. FHA

2. VA

3. Conventional/insured conventional, types currently available

4. Other

5. Points

E. Mortgage assumption and nonalienation

F. Contract for deed financing

G. Foreclosure (default)

1. Mortgage

2. Contract for deed

H. Buyer qualifications

1. Credit information

2. Standards for approval

I. Usury law

VI. Types of property

A. Classification

1. Real property

2. Personal property

3. Fixtures

B. Title

1. Private grant

2. Public grant

3. Political relations

a. Eminent domain

b. Escheat

4. Public policy

a. Adverse possession

b. Prescription

c. License

C. Estates and interests in land

1. Estates

2. Fee simple

3. Life estate (waste)

4. Remainders and reversions

5. Other

D. Concurrent ownership

1. Joint tenancy

2. Tenancy in common

3. Other

E. Easements

VII. Examination of title

A. History

B. Examination of abstract

C. Title insurance

1. Owners

2. Purchasers

3. Mortgage

D. Title registration (Torrens)

VIII. Title closing

A. Review of topics I-VII

B. Closing checklist

C. Methods of closing

1. Closing through escrow

2. Other

D. Delivery of deed

E. Responsibilities of buyer and seller

1. Taxes and liens

2. Reduction certificate (assumption statement)

3. Insurance

4. Leases

5. Bill of sale

6. Title search

7. Survey

8. Leases

9. Certificate of occupancy

10. Violations (ordinances)

11. Apportionments

F. Adjournment of closing (settlement)

G. Real estate settlement procedures act

1. Lender requirements

2. Truth-in-lending (regulation Z)

3. Settlement (closing)

H. Broker's responsibilities

K. Course II.

1. Hours. Course II shall incorporate the following number of hours for each of the following topics, for a total of 30 hours:

(a) Deeds, three hours;

(b) Search and examination of title, one hour;

(c) Residential appraisal, six hours;

(d) Residential construction, two hours;

(e) Land development and use, three hours;

(f) Condominiums, cooperatives, planned unit developments, and manufactured housing, three hours;

(g) Taxation, four hours;

(h) Investment and appraisal, four hours;

(i) Real property management, two hours; and

(j) Leases and leasing, two hours.

2. Curriculum. The Course II curriculum shall be based on the following outline:

I. Deeds

A. Parts of a deed

1. Parties

2. Consideration

3. Words of conveyance

4. Property description

5. Appurtenances

6. Habendum (estate)

7. Execution and acknowledgement

8. Seal

B. Delivery

C. Recording

D. Types of deeds

1. Quitclaim

2. Warranty deed and covenants

3. Special warranty deed

4. Other

E. Covenants running with the land

F. Validity

II. Search and examination of title

A. Object of search

1. Chain of title

2. Recording acts

B. Grantor-grantee system of indexing

1. Running the chain of title

2. Grantors

3. Mortgages

4. Lis pendens

5. Judgments

6. Liens

7. Taxes

8. Probate court

9. Special assessments

C. Lot and block indexing

III. Residential appraisal

A. Values

1. Economic concepts

2. Value and price

3. Cost

4. Elements of value

a. Physical

b. Economic

c. Social

d. Legal

5. Characteristics of value

a. Utility

b. Scarcity, demand

c. Transferability

6. Principles of value

a. Substitution

b. Conformity

c. Anticipation

B. Fundamental considerations

1. Population trends

2. Neighborhood characteristics

3. Building description

4. Site evaluation

5. Market value

C. Highest and best use

1. Factors of production

2. Diminishing returns

3. Over and under improvement

D. Approaches to value

1. Cost

2. Market

3. Income

E. Appraisal report

IV. Residential construction

A. Government regulations

B. Architectural styles

C. Plans and specifications

1. Foundations

2. Exterior

3. Interior

D. Disclosure

V. Land development and use

A. Public land use control

1. City planning

a. Enabling acts

b. Planning commissions

c. Capital improvements

d. Master planning

e. Future scope of planning

2. Zoning

a. Purpose

b. Form of ordinances

c. Exclusionary zoning

d. Board of appeals

e. Nonconforming use

f. Variance

g. Green acres law

3. Building codes

4. Environmental impact statements

5. Subdivision regulations

B. Prepurchase

1. Analysis of market

2. Site selection

3. Land costs

4. Drainage, soil tests, topography

5. Utilities

6. Road costs

7. Transportation, schools, shopping

8. Covenants

9. Government

10. Financing

a. Purchase, option or escrow

b. Rolling option

C. Planning

1. Subdivision

2. Planned urban development

3. Filing the plat

4. Consumerism and environmental protection

5. Subdivided land sales practices act

6. State and local land use regulations

D. Urban development and revitalization

VI. Condominiums, cooperatives, planned unit developments and manufactured housing

A. Cluster housing

1. History

2. Economics
   a. Land use efficiency
   b. Amenities

B. Condominiums
   1. Rights and obligations
      a. Declaration
         1. Bylaws
         2. Rules and regulations
         3. Assessments and collections
         4. Homeowners' associations
      b. Map
      c. Conveyance
      d. Management agreement
         1. Duties
         2. Enforcement of rules
         3. Collection of fees and dues
   2. Financing
   3. Time share ownership
   4. Minnesota Condominium Act
   5. Conversions
      a. Physical changes
      b. Feasibility
      c. Tenant rights
      d. Moratoriums

C. Cooperatives
   1. Cooperator (individual shareholder)
   2. Refinancing methods
   3. Owner's association

4. Tax treatment (the 80 percent rule)

5. Other forms

D. Planned unit developments

1. Planned land uses

2. Organization

E. Manufactured housing

1. Definition

2. Considerations

a. Site

b. Value

c. Safety

3. Financing

VII. Taxation

A. Real property taxes

1. Tax assessment levies

a. City

b. County

c. School district

2. Obtaining tax information

3. Appraisal and classification

4. Homestead status

B. Residential property

1. Basis

2. Adjustment of basis

3. Installment plan sales

4. Tax deferral on sale and repurchase

5. Tax implications of residential ownership

C. Income producing property

1. Long term capital gain and loss
2. Offsetting gains and losses
3. Classification

D. Depreciation on real property

E. Residential rehabilitation expense

VIII. Investment and appraisal

A. Risks

1. Purchasing power
2. Market
3. Interest rates
4. Earning power
5. Liquidity

B. Leverage

C. Cash and tax flow

D. Investment analysis

1. Effective gross income
2. Margin
3. Return on investment

E. Real estate syndication

1. General partners
2. Limited partners
3. Regulation
4. Risks and rewards

F. Real estate investment trusts

G. Appraisal of investment property

1. Net operating income

a. Converting net income to value

b. Rate of return (discount rate)

2. Estimate of value

IX. Real property management

A. Background

1. Development of management

2. Scope of management

a. Residential

b. Commercial

c. Industrial

d. Agricultural

3. Professional management

4. Types of owners

B. Management plan

1. Objectives

2. Regional analysis

3. Neighborhood analysis

4. Property analysis

a. Physical

b. Fiscal

c. Operational

5. Market analysis

a. Costs and profit

b. Comparable

c. Escalation base

6. Analysis of alternatives

7. Conclusions and recommendations

C. Government and real estate management

1. Local government

a. Rent control

b. Handicapped requirements

c. Fire code requirements

d. Miscellaneous ordinances

2. State government

a. Landlord-tenant laws

b. Nondiscrimination

c. Extension of tenants' rights

3. Federal government

a. Nondiscrimination

b. HUD subsidies

c. Regulated housing

4. Housing programs

D. Management operations

1. Marketing

2. Tenant underwriting

3. Tenant administration

4. Physical plant maintenance

a. Preventative maintenance

b. Energy management

5. Operational record keeping

a. Physical records

b. Tenant files

c. Budget

d. Fiscal

X. Leases and leasing

A. Statute of frauds

B. Elements of a contract (review)

C. Types of tenancies

1. Estate for years

2. Tenancy from year to year

3. Tenancy at will

4. Tenancy at sufferance

5. Holdover tenants

D. Types of leases

1. Gross

2. Net

3. Percentage

4. Land

5. Farm

E. Form of lease

1. Common covenants

2. Residential leases

3. Responsibilities of lessor

4. Responsibilities of lessee

5. Termination

a. Expiration

b. Automatic renewal

c. Breach of conditions

d. Abandonment

e. Eviction

6. Minnesota landlord-tenant act

L. Course III.

1. Hours. Course III shall be a 30-hour course consisting of one of the following:

(a) Real estate appraisal, 30 hours;

(b) Closing procedures, 30 hours;

(c) Farm and ranch brokerage, 30 hours;

(d) Real estate finance, 30 hours;

(e) Real estate investment, 30 hours;

(f) Real estate law, 30 hours;

(g) Real estate management, 30 hours;

(h) Real estate mathematics, 30 hours;

(i) Business brokerage, 30 hours; or

(j) A combination course of no more than three of the subjects set forth in (a)-(i), 30 hours.

2. Curriculum.

(a) The real estate appraisal course shall be based on the following outline:

Real estate appraisal

I. Nature, importance and purposes of appraisals

II. Nature, importance and characteristics of property and value

III. Principles controlling real estate value

IV. The appraisal process

V. Economic and neighborhood analysis

VI. Considerations and fundamentals of site evaluation

VII. Construction methods and materials

VIII. Architectural styles and utility

IX. Cost approach: estimating costs and accrued depreciation

X. Analysis

XI. Market data approach

XII. Income approach: income and expense analysis, capitalization theory and techniques

XIII. Reconciliation and final value estimate

XIV. Writing the report

XV. Course examination

(b) The closing procedures course shall be based on the following outline:

Closing procedures

I. Overview of closing: persons present, protocol, timeliness

II. Review of purchase agreement, supplements, addenda

III. Compilation of data needed to prepare a closing file

IV. Legal documents

V. Abstracts, title procedures

VI. Review of settlement costs: buyer, seller

VII. Closing statement: prorations and other math

VIII. Review of sample cases

IX. Follow-up procedures

X. Course examination

(c) The farm and ranch brokerage course shall be based on the following outline:

Farm and ranch brokerage

I. Responsibilities of broker to seller and buyer

II. Selling options

III. Sources of financing

IV. Factors in selecting a farm or ranch

V. Advantages and disadvantages of irrigation systems

VI. Determination of farm and ranch value

VII. Considerations in the constructing of purchase agreements

VIII. Course examination

(d) The real estate finance course shall be based on the following outline:

Real estate finance

I. Introduction to the mortgage market

II. Sources of mortgage money

III. Real estate investment trusts and syndication

IV. Mortgage banking

V. Financing residential properties

VI. Financing income producing properties

VII. Construction and land development loans

VIII. Special techniques used in financing real estate

IX. Junior mortgages

X. Land contracts

XI. Financing long term leases

XII. Course examination

(e) the real estate investment course shall be based on the following outline

Real estate investment

I. Real estate investments

II. Discounted cash flow analysis

III. Measuring investment returns

IV. Estimation of real estate cash flows

V. Real estate financing

VI. The tax process

VII. Acquisitions and operations

VIII. Dispositions and exchanges

IX. After tax investment analysis

X. Speculative land investment

XI. Multiple exchanges

XII. Course examination

(f) The real estate law course shall be based on the following outline:

Real estate law

I. The process of real estate law

II. Real estate brokerage

III. Contract for the sale of real estate

IV. Property conveyance

V. Title insurance and closing

VI. Property ownership and taxes

VII. Estates in land and landlord/tenant relationships

VIII. Cooperatives, condominiums and planned unit developments

IX. Real estate lending and land use regulations

X. Course examination

(g) The real estate management course shall be based on the following outline:

Real estate management

I. Overview and economics of real estate management

II. Government involvement

III. The management plan

IV. Owner relations and record keeping

V. Marketing and leasing

VI. Property operations

A. Tenant administration

B. Physical plant maintenance

C. Staffing and employee relations

VII. Residential management

A. Rental housing

B. Condominiums and cooperatives

VIII. Commercial management

A. Office building and special purpose

properties

B. Shopping centers and retail properties

IX. The management office

X. Creative property management

XI. Course examination

(h) The real estate mathematics course shall be based on the the following outline:

Real estate mathematics

I. Functions

A. Percentages, fractions, decimals, equivalencies, functions

B. Basic geometric rules

C. Ratio, proportion, scale

D. Basic algebraic operations

II. Areas of application to real estate

A. Broker trust accounts

B. Sales and listings

C. Valuation and spatial problems

D. Finance

E. Income and investment property

F. Closing

III. Course examination

(i) The business brokerage course shall be based on the following outline:

Business brokerage

I. Business financial statements

II. Financial statement ratio analysis

III. Cash flow, rate of return, and breakeven analysis

IV. Competitive market analysis

V. Valuation of the business

VI. Developing the business plan

VII. Qualifying the buyer

VIII. Terms of the purchase agreement

IX. Financing the business opportunity

X. Evaluation of business risk

XI. Course examination

(j) A combination course shall consist of no more than three of the preceding nine subjects and shall devote at least ten hours to each subject. A school which proposes to offer a combination Course III shall submit to the commissioner, as part of the application for approval, an outline setting forth the subjects to be addressed and the number of hours proposed to be devoted to each topic.

3. Course objectives

(a) Real estate appraisal. Upon completion of the real estate appraisal course, a student should be able to explain the nature, importance and characteristics of the factors affecting property value; perform an economic and neighborhood analysis; discuss and apply the cost, market and income approaches to value; estimate the value of 1-4 unit residential properties; and prepare a written report of the appraisal.

(b) Closing procedures. Upon completion of the closing procedures course, a student should be able to develop a checklist of activities and documents needed to carry out a closing; coordinate the compilation of information and documents from all parties to a closing; interpret all information on a purchase agreement; compute prorations and other calculations required for a closing; complete acceptable legal formats for all documents serving to transfer title; prepare an accurate closing statement; and develop a closing file system.

(c) Farm and ranch brokerage. Upon completion of the farm and ranch brokerage course, a student should be able to utilize the management assistance available to brokers, buyers and sellers of farm real estate; determine the value of farm or ranch real estate; understand the components that make up farm and ranch real estate; identify and describe methods of financing farm and ranch property; and understand the considerations in the preparation of a purchase agreement for the sale of farm or ranch property.

(d) Real estate finance. Upon completion of the real estate finance course, a student should be able to identify and describe methods of financing real property; explain the role of financial institutions in financing the purchase or sale of real

estate; utilize compound interest or "time value of money" concepts to facilitate investment and financing decisions; apply these methods to solve client financing problems; and discuss the practices and procedures of loan application, analysis, closings and foreclosure.

(e) Real estate investment. Upon completion of the real estate investment course, a student should be able to understand and describe investment tax considerations such as depreciation, capital gains, installment sales and exchanges; utilize the mathematics of real estate investment; perform feasibility studies including market analysis; perform property analysis; and apply techniques of investment analysis to specific types of real estate.

(f) Real estate law. Upon completion of the real estate law course, a student should be able to understand the process of real estate law, its historical origins, and the legal responsibilities placed upon real estate salespersons and brokers; prepare and understand the basic contracts of property conveyance; explain the major legal aspects of property conveyance, property ownership, insurance settlement procedures, taxes and leasing agreements; recognize and apply the specific requirements in planned unit developments, condominium and cooperative housing transactions; and understand the requirements of real estate lending and land use regulations.

(g) Real estate management. Upon completion of the real estate management course, a student should be able to explain and discuss the scope, nature and importance of property management; outline the essentials of a management plan; and understand the significant differences between residential, commercial, industrial and retail property management.

(h) Real estate mathematics. Upon completion of the real estate mathematics course, a student should be able to identify required mathematical procedures to be used in real estate transactions; perform required mathematical functions with a high level of accuracy; isolate and explain the steps of each calculation; and explain mathematical procedures to clients as needed.

(i) Business brokerage. Upon completion of the business brokerage course, a student should be able to evaluate business financial statements, qualify potential buyers, review relevant markets including competition, develop a business plan, value the firm's assets and goodwill, negotiate the terms of a purchase agreement, and explain terms of financing, valuation, and business risk to a potential buyer.

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4 MCAR S 1.41530 Continuing education.

A. Generally. Continuing education shall consist of approved courses which impart substantive and procedural knowledge in the real estate field.

B. Attendance. Courses must be attended in their entirety in order for a licensee to obtain credit. No credit will be given for partial attendance at a course.

C. Credit approved. Courses will be approved only in hour segments. No fractional hours will be approved, nor will applicants be given credit for any period of less than a whole hour.

D. Examinations. Course examinations will not be required for continuing education courses unless they are required by the school or the licensee elects to take Course III for continuing education credit.

E. Textbooks. Textbooks are not required to be used for continuing education courses. In instances in which textbooks are not used, students are to be provided with a syllabus containing, at a minimum, the course title; the times and dates of the course offering; the names and addresses or telephone numbers of the course coordinator and instructor; and a detailed outline of the subject materials to be covered.

F. Credit earned. Upon completion of approved courses, students shall earn one hour of continuing education credit for each hour of attendance and approved instructors shall earn three hours of continuing education credit for each hour of instruction. Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor.

G. Disapproved courses. Approval will not be granted for courses (1) designed to prepare students for passing any licensing examinations; (2) in mechanical office or business skills, including typing, speed-reading, use of calculators or other machines or equipment; (3) in sales promotion, including meetings held in conjunction with the general business of the licensee's broker; (4) or in motivation, salesmanship, psychology or time management.

H. Continuing education credit for Course III. Licensees may attend or teach Course III for continuing education credit. Credit will be given for less than the entire Course III only for combination courses offered pursuant to 4 MCAR S 1.41529 L.1.j. Credit will be given only for attendance at segments of the combination Course III which completely cover a subject. An examination will be required only if the licensee takes the entire combination course or if the school requires a separate examination for each subject covered.

The burden of demonstrating that courses impart substantive and procedural knowledge in the real estate field is upon the person seeking approval or credit.

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4 MCAR S 1.41531 General real estate education requirements. Rules 4 MCAR SS 1.41532-1.41548 constitute general requirements applicable to all real estate education courses.

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4 MCAR S 1.41532 Course approval.

A. Generally. Courses must be approved by the commissioner in advance and will be approved or disapproved on the basis of their compliance with the provisions of Minnesota Statutes, section 82.22 and the rules adopted thereunder.

No advance approval is required for continuing education offerings if the licensee demonstrates attendance at an offering which was in substantial compliance with Minnesota Statutes, chapter 82 and the rules adopted thereunder.

Approval will not include time spent on breaks, meals, or other unrelated activities.

B. Permitted course offerings. Courses complying with Minnesota Statutes, chapter 82 and the rules adopted thereunder may be offered or sponsored by schools.

Coordinators must immediately notify the commissioner of any material change in an application for approval or in the exhibits attached to it.

C. Limitation on advertising. Courses may not be advertised prior to approval.

D. Applications. Applications for course approval will be accepted on forms prescribed by the commissioner no later than 30 days prior to the course offering and shall include the following:

1. The course title;

2. The date, time, and place of the course offering;

3. The name, address, and telephone number of the sponsoring entity;

4. The name, address, and telephone number of the course coordinator;

5. The name, address, and telephone number of the instructor;

6. The name, edition, and date of publication of the text to be used, if applicable;

7. A detailed outline of the course offering, or a statement of compliance with the prescribed outlines for Course I, II, or III; and

8. Compliance with the service of process provisions of Minnesota Statutes, section 82.31, if applicable.

The form in 4 MCAR S 1.41555 (RE-3) shall be used for Courses I, II, and III and the form in 4 MCAR S 1.41558 (RE-6) shall be used for continuing education courses.

E. Subsequent offerings of courses. Approval shall be granted for subsequent offerings of identical continuing education courses without requiring a new application if a Notice of Subsequent Offerings, 4 MCAR S 1.41560 (RE-8), is filed with the commissioner at least 30 days in advance of the date the course is to be held.

Subsequent offerings of identical Courses I, II, and III do not require the approval of or notice to the commissioner.

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4 MCAR S 1.41533 Courses open to all. All course offerings shall be open to any interested individuals. Discounts of tuition shall not be given because of affiliation with any particular brokerage or franchise.

4 MCAR S 1.41534 Course coordinator.

A. Requirement. Each course of study shall have one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with Minnesota Statutes, chapter 82 and the rules adopted thereunder. Schools may engage an additional approved coordinator in order to assist the coordinator or to act as a substitute for the coordinator in the event of an emergency or illness.

B. Qualifications. The commissioner shall approve as a coordinator a person meeting one or more of the following criteria:

1. A minimum of the previous five years as an active real estate broker;

2. At least three years of full-time experience in the administration of an education program during the five-year period immediately preceding the date of application; or

3. A degree in education plus two years real estate experience.

Application for approval must be submitted on the form in 4 MCAR S 1.41554 (RE-2).

C. Responsibilities. A coordinator shall be responsible for:

1. Assuring compliance with all laws and rules pertaining to real estate education;

2. Assuring that students are provided with current and accurate information relating to the laws and rules governing

their real estate activity;

3. Supervising and evaluating courses and instructors. Supervision shall include assuring, especially when a course will be taught by more than one instructor, that all areas of the curriculum are addressed without redundancy and that continuity is present throughout the entire course;

4. Furnishing the commissioner, upon request, with copies of evaluations of instructors or courses;

5. Investigating complaints related to course offerings and instructors;

6. Maintaining records relating to course offerings, instructors, and student attendance for a period of three years from the date on which the course was completed. These records shall be made available to the commissioner upon request.

In the event that a school should cease operation for any reason, the coordinator shall be responsible for maintaining the records or providing a custodian for the records acceptable to the commissioner. Under no circumstances will the commissioner act as custodian of the records. In order to be acceptable to the commissioner, custodians must agree to make copies of acknowledgements available to students at a reasonable fee.

7. Assuring that the coordinator is available to instructors and students throughout course offerings and providing the name of the coordinator and a telephone number at which the coordinator can be reached;

8. Attending workshops or instructional programs as reasonably required by the commissioner;

9. Reporting on the form in 4 MCAR S 1.41557 (RE-5) the attendance of licensed students in Courses II and III to the commissioner within 14 days of their completion of the course; and

10. Providing students with Course Completion Certificates, 4 MCAR S 1.41553 (RE-1), for Courses I, II, and III, and continuing education courses.

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4 MCAR S 1.41535 Instructors.

A. Requirement. Each course of study shall have an instructor who is qualified by education, training, or experience to insure competent instruction.

B. Qualifications. The following provisions relate to the approval and qualification of instructors:

1. Applicants shall submit requests for instructor approval on the form in 4 MCAR S 1.41556 (RE-4) for Courses I,

II, and III and the form in 4 MCAR S 1.41559 (RE-7) for continuing education courses. Requests must be submitted at least 30 days prior to instruction in an approved course;

2. Applicants for Courses I, II, and III shall be approved if they achieve a rating of 70 points or higher based upon the scale in Exhibit 4 MCAR S 1.41535 B.-1.

Exhibit 4 MCAR S 1.41535 B.-1.

Ratings for Applicants Seeking Approval

as Instructors of Courses I, II, and III

POINTS	CRITERIA
20	2-year degree or certificate;
40	4-year degree;
50	post graduate degree;
60	2-year real estate degree or certificate;
70	4-year real estate degree or certificate. Points may not be accumulated in the case of individuals holding more than one degree or certificate;
10	Each 45 hours of continuing real estate education attended or taught. No points will be allowed for periods of less than 45 hours;
30	First three-year period in which engaged full-time in the real estate industry as a licensed broker or salesperson or, in the case of applicants for Course III, the first three-year period in which engaged full-time in a business or profession relating to the subject being taught. No points will be allowed for an applicant who has been licensed for less than three years or who has been engaged in a related business or profession for less than three years;
10	Each full year, after the first full three years, in which engaged full-time in the real estate industry as a licensed broker or salesperson or, in the case

of applicants for Course III, each full year, after the first full three years, in which engaged full-time in a business or profession relating to the subject being taught.

3. The same instructor may teach all three courses. Instructors may engage a nonapproved or guest instructor to teach up to ten hours of specialized coursework covered in Course I, II, or III. Approved instructors remain responsible for complying with the provisions of C.; and

4. Continuing education instructors must have either:

a. a degree in any area plus two years practical experience in the subject area being taught;

b. five years practical experience in the subject area being taught;

c. a college or graduate degree in the subject area being taught; or

d. have held a broker's license for three years or have three years practical experience in the subject area being taught. These individuals shall also have completed at least 60 hours of approved continuing education in the subject area being taught.

C. Responsibilities. Approved instructors shall be responsible for the following:

1. Compliance with all laws and rules relating to real estate education;

2. Providing students with current and accurate information;

3. Maintaining an atmosphere conducive to learning in the classroom;

4. Assuring and certifying attendance of students enrolled in courses;

5. Providing assistance to students and responding to questions relating to course materials; and

6. Attending such workshops or instructional programs as are reasonably required by the commissioner.

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4 MCAR S 1.41536 Prohibited practices for coordinators and instructors.

A. Generally. In connection with an approved course coordinators and instructors shall not:

1. Recommend or promote the services or practices of any particular real estate brokerage, franchise, coordinator, instructor or school;

2. Encourage or recruit individuals to engage the services of, or become associated with, any particular real estate brokerage or franchise;

3. Use materials, clothing, or other evidences of affiliation with any particular real estate brokerage or franchise;

4. Require students to participate in other programs or services offered by the school, coordinator, or instructor;

5. Take a Minnesota real estate licensing examination without the prior approval of the commissioner;

6. Attempt, either directly or indirectly, to discover questions or answers on a real estate licensing examination; or

7. Disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations.

B. Notification of misconduct. Coordinators and instructors shall notify the commissioner within ten days of a felony conviction or of disciplinary action taken against a real estate or other occupational license held by the coordinator or instructor.

C. Coordinators and instructors shall notify the commissioner within ten days of any change in the information set forth in the application for approval on file with the commissioner.

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4 MCAR S 1.41537 Extensions. Upon appropriate showing of a bona fide financial or medical hardship, the commissioner may extend the time period during which post-licensing or continuing education instruction must be successfully completed. Loss of income resulting from cancellation of a license is not a bona fide hardship. Requests for extensions must be submitted in writing no later than 45 days prior to the date of license cancellation and shall include an explanation and verification of the hardship, and a verification of enrollment in an approved course of study and the dates during which the course will be held.

4 MCAR S 1.41538 Waivers. Required real estate education shall not be waived for any licensee or applicant for a license.

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4 MCAR S 1.41539 Fees. Fees for approved courses and related materials shall be reasonable and clearly identified to students. In the event that a course is cancelled for any reason, all fees shall be returned promptly. In the event that a course is postponed for any reason, students shall be given the choice of attending the course at a later date or of having their fees refunded in full. If a student is unable to attend a course or cancels his or her registration in a course, school policies regarding refunds shall govern.

4 MCAR S 1.41540 Facilities. Each course of study shall be conducted in a classroom or other facility which is adequate to implement the offering. Approved courses shall not be held on the premises of a real estate brokerage, franchise, or an affiliate thereof.

4 MCAR S 1.41541 Conflict of interest. A course will not be approved if it is offered by a person who derives substantial income from the real estate brokerage business.

4 MCAR S 1.41542 Supplementary materials. An adequate supply of supplementary materials to be used or distributed in connection with an approved course must be available in order to ensure that each student receives all of the necessary materials. Outlines and any other materials which are reproduced shall be of readable quality.

4 MCAR S 1.41543 Advertising.

A. Generally. Advertising must be truthful and not deceptive or misleading.

B. Approval statement. No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering may be circulated or distributed in this state unless the following statement is prominently displayed on the cover of it:

1. For initial education courses, "This course has been approved by the Commissioner of Securities and Real Estate pursuant to Minnesota Statutes, section 82.22, subdivision 6 for initial education courses;" or

2. For continuing education courses, "This course has been approved by the Commissioner of Securities and Real Estate pursuant to Minnesota Statutes, section 82.22, subdivision 13, relating to continuing real estate education."

The preceeding language need not be displayed on the cover of any out-of-state offering advertisement; however, it is the responsibility of the school to provide students with evidence

that the course has been approved.

C. Approved course advertisements. Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

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4 MCAR S 1.41544 Notice. At the beginning of each approved offering, the following notice shall be read to students: "This real estate educational offering is recognized by the Commissioner of Securities and Real Estate as satisfying ..... hours of credit toward ..... (choose one, or more, of the following: prelicensing, postlicensing, or continuing) real estate education requirements pursuant to Minnesota Statutes, section 82.22. If you have any comments about this real estate offering, please mail them to the Commissioner of Securities and Real Estate, 500 Metro Square Building, St. Paul, Minnesota 55101."

4 MCAR S 1.41545 Audits. The commissioner reserves the right to audit subject offerings with or without notice to the school.

4 MCAR S 1.41546 Disciplinary action. The commissioner may deny, censure, suspend, or revoke the approval of a coordinator, instructor, or course if it is determined that they are not in compliance with Minnesota Statutes, chapter 82 or the rules adopted thereunder.

4 MCAR S 1.41547 Course completion certificates. Applicants for a salesperson's license shall submit to the commissioner, along with their application for licensure, a copy of the Course Completion Certificate, 4 MCAR S 1.41553 (RE-1), for Course I, and for Courses II and III if completed prior to being licensed.

Students are responsible for maintaining copies of Course Completion Certificates.

4 MCAR S 1.41548 Reports to commissioner. Continuing education credits shall be reported by the licensee on the form in 4 MCAR S 1.41561 (RE-9).

Forms will not be accepted unless they reflect the entire 45 required hours. Incomplete forms will be returned to the licensee.

Forms must be received by the commissioner no later than June 15 of the year in which the credits are due. Forms which are mailed shall be deemed timely received if addressed to: Real Estate Licensing, 500 Metro Square Building, Saint Paul, MN 55101, and postmarked prior to 12:01 a.m. on June 14. Licensees are encouraged to submit the form as soon as they have completed the 45 hours of continuing education credit.

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4 MCAR S 1.41549 Automatic transfer of salesperson's license.

A. Applicability. A salesperson may utilize the automatic license transfer provisions of Laws 1982, chapter 478, section 1, subdivision 9, clause (b) if the salesperson commences his or her association with the broker to whom he or she is transferring, as evidenced by the dates of the signatures of both brokers on the form in 4 MCAR S 1.41562 (RE-10), within five days after terminating his or her association with the broker from whom he or she is transferring, provided the salesperson's educational requirements are not past due.

A salesperson may not utilize the automatic license transfer provisions of Laws 1982, chapter 478, section 1, subdivision 9, clause (b) if he or she has failed to notify the commissioner within ten days of any change of information contained in his or her license application on file with the commissioner or of a civil judgment, disciplinary action, or criminal offense, which notice is required pursuant to 4 MCAR S 1.41525.

B. Procedure. An application for automatic transfer shall be made only on the form in 4 MCAR S 1.41562 (RE-10). The transfer is ineffective if the form is not completed in its entirety.

The form in 4 MCAR S 1.41562 (RE-10) shall be accompanied by a $10 transfer fee, and the license renewal fee, if applicable, plus an additional $10 if the salesperson holds a subdivided land license. Cash will not be accepted. If the licensee holds a subdivided land license it must be transferred at the same time as the salesperson's license. In order for the transfer of the subdivided land license to be effective the broker to whom the salesperson is transferring must also hold a subdivided land license.

The signature on the form in 4 MCAR S 1.41562 (RE-10) of the broker from whom the salesperson is transferring must predate the signature of the broker to whom the salesperson is transferring. The salesperson is unlicensed for the period of time between the times and dates of both signatures. The broker from whom the salesperson is transferring shall sign and date the transfer application upon the request of the salesperson and shall destroy the salesperson's license immediately.

C. Effective date.

1. The transfer is effective when the broker to whom the salesperson is transferring signs and dates the transfer application form in 4 MCAR S 1.41562 (RE-10), provided the commissioner receives the form and fee within 72 hours after the date and time of the new broker's signature, either by certified mail or personal delivery to the commissioner's office. In the event of a delay in mail delivery, an application postmarked within 24 hours of the date of the signature of the new broker

shall be deemed timely received.

2. The transfer is ineffective if the fee is paid by means of a check, draft or other negotiable or non-negotiable instrument or order of withdrawal drawn on an account with insufficient funds.

3. The salesperson shall retain the certified mail return receipt, if the transfer application is delivered to the commissioner by mail, retain a photocopy of the executed transfer application, and provide a photocopy of the executed transfer application to the broker from whom he or she is transferring.

4 MCAR S 1.41550 Approved lender is not a broker. The definition of "real estate broker" or "broker" set forth in Minnesota Statutes, section 82.17, subdivision 4, clause (b) shall not apply to the originating, making, processing, selling, or servicing of a loan in connection with his or her ordinary business activities by a mortgagee , lender or servicer approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association.

4 MCAR S 1.41551 Applicability. Prior rules exclusively govern all suits, actions, prosecutions, or proceedings which are pending or may be initiated on the basis of facts or circumstances occurring before the effective date of these rules. Judicial review of all administrative orders issued prior to the effective date of these rules as to which review proceedings have not been instituted by the effective date of these rules is governed by prior rules.

4 MCAR S 1.41552 Withdrawal of license or application.

A. Request to commissioner. A licensee or license applicant may at any time file with the commissioner a request to withdraw from the status of licensee or to withdraw a pending license application. Withdrawal from the status of licensee or withdrawal of the license application becomes effective 30 days after receipt of a request to withdraw or within a shorter period the commissioner determines unless a revocation, suspension, or denial proceeding is pending when the request to withdraw is filed or a proceeding to revoke, suspend, deny, or to impose conditions upon the withdrawal is instituted within 30 days after the request to withdraw is filed. If a proceeding is pending or instituted, withdrawal becomes effective at the time and upon the conditions the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may institute

a revocation or suspension proceeding within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which the license was in effect.

B. Failure to renew license. If a license lapses or becomes ineffective due to the licensee's failure to file a timely renewal application or otherwise, the commissioner may institute a revocation or suspension proceeding within one year after the license was last effective and enter a revocation or suspension order as of the last date on which the license was in effect.

C. Revocations. If the commissioner finds that any licensee or applicant is no longer in existence or has ceased to do business as a broker or salesperson or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the commissioner may by order revoke the license or deny the application.

REPR 97

4 MCAR S 1.41553 Course Completion Certificate. The real estate education course completion certificate shall be in the form in Exhibit 4 MCAR S 1.41553-1.

Exhibit 4 MCAR S 1.41553-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-1

COURSE COMPLETION CERTIFICATE

NOTICE TO SCHOOL: Furnish two copies to student.
NOTICE TO STUDENTS:
1. For Course I, attach one copy to license application.
2. For Course II and III, retain for your records unless course was completed prior to licensure. If completed prior to licensure, attach one copy to license application.
3. For continuing education courses, transfer information from this form to Form RE-9 and submit to Real Estate Licensing when total is 45 hours. Retain one copy for your records.

Student's Name (as it appears on your license)		Home Address	
City, State, Zip		Company to which You are Licensed	
School/Sponsoring Entity			
Completion Date of Course	☐ Course I	☐ Course II	☐ Course III
☐ Continuing Education	No. of Hrs.	Course No.	Course Title
	Coordinator's Signature		Date

CM-00502-01

REPR 97

4 MCAR S 1.41554 Application for Coordinator Approval. The real estate education application for coordinator approval shall be in the form in Exhibit 4 MCAR S 1.41554-1.

Exhibit 4 MCAR S 1.41554-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-2

APPLICATION FOR COORDINATOR APPROVAL

Name of Applicant		Address
City, State, Zip	Phone ( )	School/Sponsoring Entity for which Seeking Approval

4 MCAR § 1.41534 Course Coordinator. B. Qualifications – The Commissioner shall approve as a coordinator a person having the following qualifications:

1. A minimum of the previous five years as an active real estate broker
   OR:
2. At least three of the prior five years of full time experience in the administration of an education program
   OR:
3. A degree in education plus two years real estate experience.

Educational Background Relating to Criteria for Approval		
School	Dates Attended	Degree (indicate major)
	-	

Employment History Relating to Criteria for Approval			
Name of Employer	Address	Date of Employment	Position

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If Yes, date issued: _____ Type of License: _____		

▶If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendent in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

I certify that the information contained on this application is correct. I understand that if approved as coordinator, I will be responsible for compliance with Minnesota laws and rules relating to real estate education in connection with any courses conducted under my supervision. I further certify that I have read and understood the Minnesota laws and rules relating to real estate education.

Signature of Applicant	Date

REPR '87

4 MCAR S 1.41555 Application for Course Approval for Course I, II, and III. The real estate education application for course approval for courses I, II, and III shall be in the form in Exhibit 4 MCAR S 1.41555-1.

Exhibit 4 MCAR S 1.41555-1

RE-3

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

APPLICATION FOR COURSE APPROVAL
FOR COURSE I, II, AND III

Instructions: 1. Attach Service of Process Form (for out-of-state applicants only).
2. Attach Instructor Approval Form if instructor has not previously been approved.

"X" applicable course: ☐ Course I ☐ Course II ☐ Course III

Course Title	School/Sponsoring Entity
Address	City, State, Zip / Phone (include area code) ( )

Course Dates: From | To | Time | Total Hours

Course Location

Name of Text | Date of Edition | Author

"X" if you certify that course material is in compliance with prescribed outlines: ☐ Yes ☐ No

If Course III is a combination of subjects, list below:

Subject	Number of Hours

Coordinator	Home Address
City, State, Zip	Phone (include area code) ( )

As coordinator of the proposed offering, I certify that the information contained in this application is correct to the best of my knowledge. I also certify that this course is not being offered by an individual, firm or business organization, the primary income of which is derived from the real estate brokerage business.

Signature of Coordinator	Date

State of _____)
) ss
County of _____)

On this _____ day of _____ 19__, _____ appeared before me, a Notary Public, and being duly sworn, says that she/she has read the foregoing application and accompanying exhibits, and that the contents thereof are true to her/his own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

FOR OFFICE USE ONLY

Course No.	Course Title	Date Approved
Reason for Non-approval		
Signature	Title	

CM-00504-01

REPR

97 4 MCAR S 1.41556 Application for Instructor Approval for Courses I, II, III. The real estate education application for instructor approval for courses I, II, and III shall be in the form in Exhibit 4 MCAR S 1.41556-1.

Exhibit 4 MCAR S 1.41556-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-4

APPLICATION FOR INSTRUCTOR APPROVAL
FOR COURSES I, II, III

Name of Applicant	Address	
City, State, Zip	Phone (Include area code) ( )	School/Sponsoring Entity

4 MCAR § 1.41535 Instructors 2. Applicants for Course I, II, and III shall be approved if they achieve a rating of 70 points or higher based upon the scale below.

Points	
20	2 year degree or certificate
40	4 year degree
50	Post graduate degree
60	2 year real estate degree or certificate
70	4 year real estate degree or certificate
10	Each 45 hours of approved continuing real estate education attended or taught.
30	First three year period in which engaged full time in real estate industry or profession related to area of teaching.
10	Each successive year in which engaged in full time in real estate or profession relating to area of teaching.

Educational Background For Which Applicant Seeks Points		
Name of School	Dates Attended	Degree

Educational Points: _____

Continuing Real Estate Education For Which Applicant Seeks Points	
Total No. of Hours Attended	Total No. of Hours Taught

Continuing Education Points: _____

Professional Experience For Which Applicant Seeks Points		
Place of Employment	Dates	Position Held

Experience Points: _____

TOTAL POINTS: _____

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If yes, date issued: _____ Type of License: _____		

▶If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendant in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

CM-00585-01

OVER

I certify that the information contained in this application is correct and that I will notify the Commissioner within ten days of any changes in the information contained herein.

Signature of Applicant	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19___. _____ appeared before me, a Notary Public, and being duly sworn, says that she/he is the applicant; that she/he read the foregoing application and accompanying exhibits, and that the contents are true to her/his knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

I recommend that approval as an instructor be granted for the aforementioned applicant. I understand that I am responsible for the supervision of this instructor pursuant to 4 MCAR § 1.41534C.

Signature of Coordinator	Date

REPR
97

4 MCAR S 1.41557 Course II and III Record of Completion. The real estate education courses II and III record of completion shall be in the form in Exhibit 4 MCAR S 1.41557-1.

Exhibit 4 MCAR S 1.41557-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-5

COURSE II and III RECORD OF COMPLETION

This form is to be submitted by schools/sponsoring entities within 14 days of course completion.

"X" one: ☐ Course II ☐ Course III

Completion Date

Student Name	Home Address	Company Name

Coordinator's Signature	Date	Name of School/Sponsoring Entity

School/Sponsoring Entity Address	City, State, Zip

CM-00506-01

REPR 97

4 MCAR S 1.41558 Application for Course Approval for Continuing Education. The real estate education application for course approval for continuing education shall be in the form in Exhibit 4 MCAR S 1.41558-1.

Exhibit 4 MCAR S 1.41558-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-6

APPLICATION FOR COURSE APPROVAL FOR CONTINUING EDUCATION

Instructions:
1. Attach a Service of Process Form (for out-of-state applicants only).
2. Attach syllabus (pursuant to 4 MCAR § 1.41530 (E) and include the time allotted to each segment in the outline.
3. Attach instructor approval form.

Course Title	School/Sponsoring Entity
Address	City, State, Zip	Phone (include area code) ( )

Course Dates:	From –	To	Time	Total Hours
	Course Location			
	Name of Text (if applicable)	Date of Edition	Author	

Coordinator	Home Address
City, State, Zip	Phone (include area code) ( )

As coordinator of the proposed offering, I certify that the information contained in this application is correct to the best of my knowledge. I also certify that this course is not being offered by an individual, firm or business organization, the primary income of which is derived from the real estate brokerage business.

Signature of Coordinator	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19__. _____ appeared before me, a Notary Public, and being duly sworn, says that she/he has read the foregoing application and accompanying exhibits, and that the contents thereof are true to her/his own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

FOR OFFICE USE ONLY

Course No.	Course Title	Date Approved
Reason for Non-Approval		
	Signature	Title

CM-00507-01

REPR 97

4 MCAR S 1.41559 Application for Instructor Approval for Continuing Education. The real estate education application for instructor approval for continuing education shall be in the form in Exhibit 4 MCAR S 1.41559-1.

Exhibit 4 MCAR S 1.41559-1

RE-7

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

APPLICATION FOR INSTRUCTOR APPROVAL
FOR CONTINUING EDUCATION

Name of Applicant	Address
City, State, Zip	Telephone (include area code) ( )
Course Title	School/Sponsoring Entity

4 MCAR §1.41535 Instructors B. (4) Continuing Education instructors must have a degree in any area plus two years practical experience in the subject being taught, OR five years practical experience in the subject area being taught; OR a college degree in the subject area being taught; OR have held a broker's license for 3 years, or have 3 yrs. practical experience in the subject area being taught, and have completed at least 60 hours of approved continuing education in the subject area being taught.

College/University			
Name of School	Address	Year of Graduation	Major

Experience Related to Subject Area			
Dates	Place of Employment	Address	Position Held

	Yes	No
1. Do you have a real estate license in Minnesota or any other state? If yes, date issued: _____ State _____ Type of License: _____		

▶If the answer to any of the following questions is yes, attach a detailed explanation.

	Yes	No
2. Have you ever been the subject of any inquiry or investigation by any agency through which you have been licensed or certified?		
3. Have you ever had a real estate, securities or insurance license in any state which has been suspended, revoked, cancelled or terminated?		
4. Have you ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?		
5. Have you ever been a defendant in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of real estate contract?		
6. Are you currently an officer, partner or owner of a licensed real estate company?		

I certify that the information contained in this application is correct and that I will notify the Commissioner within ten days of any changes in the information contained herein.

Signature of Applicant	Date

State of _____)
) ss
County of _____)

On this _____ day of _____, 19___, _____ appeared before me, a Notary Public, and being duly sworn says that she/he is the applicant; that he/she has read the foregoing application and accompanying exhibits, and that the contents are true to his/her own knowledge.

NOTARIAL SEAL

Notary Public	
County	My Commission Expires

CM-00508-01

4 MCAR S 1.41560 Notice of Subsequent Offerings of Continuing Education Courses. The real estate education notice of subsequent offerings of continuing education courses shall be in the form in Exhibit 4 MCAR S 1.41560-1.

Exhibit 4 MCAR S 1.41560-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-9458

RE-6

NOTICE OF SUBSEQUENT OFFERINGS OF CONTINUING EDUCATION COURSES

This Form is to be used to notify the Commissioner no later than 30 days in advance of the proposed offering of previously approved courses.

Course No.	Course Title		Sponsoring Entity
School Address	City, State, Zip		Phone (area code) ( )
Coordinator's Name	Home Address		City, State, Zip
Course Dates: From	To	Time	Total Hours
Course Location			

Submitted by (print or type)	Signature
Title	Date

CM-08169-01

REPR 97

4 MCAR S 1.41561 Continuing Education Course Verification. The real estate education continuing education course verification shall be in the form in Exhibit 4 MCAR S 1.41561-1.

Exhibit 4 MCAR S 1.41561-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-6468

RE-9

CONTINUING EDUCATION COURSE VERIFICATION

The information which you furnish on this form will be used to determine whether you have complied with the continuing education requirement of Minnesota Statutes, Chapter 82. You are not legally required to provide this information. However, if you fail to do so, the Department of Commerce will be unable to renew your real estate license. Information contained on this application, other than name and address, will be private pursuant to Minnesota Statute, Chapter 15.

Instructions

1. This form is an on-going record of your continuing education credits for the three year reporting period. Attach additional forms if necessary.
2. Each time you complete a continuing education course, enter the course number, date completed, course title and the number of hours of credit received.
3. When the total number of hours received reaches 45, sign and date the bottom of the form and promptly submit to:

   Real Estate Licensing
   500 Metro Square Building
   St. Paul, MN 55101

   Do not wait until the renewal of your license. Retain a copy for your records.
4. Be sure that all information requested is provided. Incomplete forms will be returned to the licensee.
5. If credit is earned as instructor, place "instructor" next to the course title. Instructors may earn three credit hours for each one hour taught, only the first time a course is taught.

Name (as it appears on your license)	License No.	Name of Company to which You Are Licensed
Home Address		City, State, Zip

Course No.	Date Completed	Course Title	Credit Hours
		TOTAL	

CERTIFICATION

I certify that I have taken and completed the courses listed above and will furnish to the Securities and Real Estate Division, upon request, evidence of having taken any or all of the courses listed.

Signature	Date

CM-00510-81

REPR 97

4 MCAR S 1.41562 Real Estate Salesperson Automatic Transfer. The real estate salesperson automatic transfer shall be in the form in Exhibit 4 MCAR S 1.41562-1.

Exhibit 4 MCAR S 1.41562-1

State of Minnesota
Department of Commerce
Securities and Real Estate Division
500 Metro Square Building
St. Paul, MN 55101
(612) 296-9458

RE-1a

REAL ESTATE SALESPERSON AUTOMATIC TRANSFER

The data which you furnish on this form will be used to implement the automatic transfer of your real estate salesperson's license. You are not legally required to provide this data. However, if you fail to do so you will be unable to utilize the automatic license transfer provision of Minnesota Statute §82.20, Subd. 9(b). Disclosure of your social security number is voluntary, authorized by Minnesota Statute, Chapter 270A. Your social security number may be used to recapture payments made out of the Recovery Fund. Information contained in this application, other than your name and address, will be private pursuant to Minnesota Statutes, Chapter 15.

This form may be used to effect an automatic transfer of a salesperson's license from one broker to another broker provided:

a) the applicant's educational requirements are not past due;
b) this form is completed in its entirety;
c) the applicant commences his/her association with the broker to whom he is transferring within five days after terminating his association with the broker from whom he/she is transferring;
d) the appropriate transfer fee is attached (if the applicant transfers between May 1 and June 30, inclusive, of any year he/she must also pay the renewal fee in addition to the transfer fee);
e) this form and the appropriate fees are received either by certified mail or personal delivery to the Securities and Real Estate Division of the Department of Commerce within 72 hours of execution by the broker to whom the applicant is transferring; (in the event of a delay in mail delivery, an application postmarked within 24 hours of the date of the signature of the new broker shall be deemed timely received);
f) the signature of the previous broker pre-dates the signature of the broker to whom the salesperson is transferring;
g) the applicant is in compliance with 4 MCAR Section 1.41525 concerning notice to the commissioner of any change of information contained in his/her license application or of any civil judgment, disciplinary action or criminal offense.

"X" one: ☐ Transfer $10.00 ☐ Transfer and Renewal* $25.00

☐ Transfer with Subdivided Land $20.00 ☐ Transfer and Renewal with Subdivided Land* $35.00

*Renewal fees are subject to increase due to special assessments for the Real Estate Education, Research and Recovery Fund. If transferring between May 1 and June 30, inclusive, of any year contact the commissioner's office to determine whether a special assessment has been made.

Applicant's Name as it Appears on License	Social Security No.	License No.
Home Address	City, State, Zip	

Broker (company to which previously licensed)		License No.
Signature of Broker	Time	Date

Broker (company to which you will be licensed)	License No.

I understand that I, as broker, am responsible for the real estate activities of this salesperson as of the time and date below:

Signature of Broker	Time	Date

I hereby certify that I currently hold a Minnesota Real Estate Salesperson's License and that I am eligible for an immediate transfer; that I am not past due for any educational requirements; and that all information contained herein is true and accurate. Further, I understand that I am unlicensed for any period of time between the signatures of the terminating broker and the broker to whom I am transferring. I understand and acknowledge that if this application is not received by the Securities and Real Estate Division within 72 hours of execution of the broker to whom I am transferring, or that if this application is not completed in its entirety, I am not eligible for an immediate transfer. I further certify that I have not failed to notify the Commissioner within 10 days of any change of information contained in my license application or of any civil judgment, disciplinary action or criminal offense, which notice is required pursuant to 4 MCAR 1.41525. (If this application is submitted to the Commissioner by certified mail, the return receipt shall constitute evidence of delivery.)

Signature of Applicant	Date

CM-00511-01

APPLICANT MUST RETAIN A PHOTOCOPY OF THIS DOCUMENT AS EXECUTED AND SHALL ALSO PROVIDE THE BROKER FROM WHOM HE IS TRANSFERRING WITH A PHOTOCOPY OF THIS DOCUMENT AS EXECUTED.

AR02255T

4 MCAR S 1.5000 Contract for deed with individual seller. The recommended form for a contract for deed when there is an individual seller is contained in Exhibit 4 MCAR S 1.5000-1.

Exhibit 4 MCAR S 1.5000-1

CONTRACT FOR DEED Form No. 54-M Minnesota Uniform Conveyancing Blanks (1978) Miller-Davis Co., Minneapolis
Individual Seller

No delinquent taxes and transfer entered;
Certificate of Real Estate Value
( )filed ( )not required
_____, 19__.

_____
County Auditor

By _____
Deputy

(reserved for mortgage registry tax payment data)

(reserved for recording data)

MORTGAGE REGISTRY TAX DUE HEREON:

$_____

Date: _____, 19__

THIS CONTRACT FOR DEED is made on the above date by _____

_____, _____
(marital status)

Seller (whether one or more), and _____

_____, Purchaser (whether one or more).

Seller and Purchaser agree to the following terms:

1. PROPERTY DESCRIPTION. Seller hereby sells, and Purchaser hereby buys, real property in _____ County, Minnesota, described as follows:

together with all hereditaments and appurtenances belonging thereto (the Property).

2. TITLE. Seller warrants that title to the Property is, on the date of this contract, subject only to the following exceptions:
   (a) Covenants, conditions, restrictions, declarations and easements of record, if any;
   (b) Reservations of minerals or mineral rights by the State of Minnesota, if any;
   (c) Building, zoning and subdivision laws and regulations;
   (d) The lien of real estate taxes and installments of special assessments which are payable by Purchaser pursuant to paragraph 6 of this contract; and
   (e) The following liens or encumbrances:

3. DELIVERY OF DEED AND EVIDENCE OF TITLE. Upon Purchaser's prompt and full performance of this contract, Seller shall:
   (a) Execute, acknowledge and deliver to Purchaser a _____ Deed, in recordable form, conveying marketable title to the Property to Purchaser, subject only to the following exceptions:
      (i) Those exceptions referred to in paragraph 2(a), (b), (c) and (d) of this contract;
      (ii) Liens, encumbrances, adverse claims or other matters which Purchaser has created, suffered or permitted to accrue after the date of this contract; and

(iii) The following liens or encumbrances:

; and

(b) Deliver to Purchaser the abstract of title to the Property or, if the title is registered, the owner's duplicate certificate of title.

4. PURCHASE PRICE. Purchaser shall pay to Seller, at _____, the sum of _____ ($_____), as and for the purchase price for the Property, payable as follows:

5. PREPAYMENT. Unless otherwise provided in this contract Purchaser shall have the right to fully or partially prepay this contract at any time without penalty. Any partial prepayment shall be applied first to payment of amounts then due under this contract, including unpaid accrued interest, and the balance shall be applied to the principal installments to be paid in the inverse order of their maturity. Partial prepayment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments.

6. REAL ESTATE TAXES AND ASSESSMENTS. Purchaser shall pay, before penalty accrues, all real estate taxes and installments of special assessments assessed against the Property which are due and payable in the year 19__ and in all subsequent years. Real estate taxes and installments of special assessments which are due and payable in the year in which this contract is dated shall be paid as follows:

Seller warrants that the real estate taxes and installments of special assessments which were due and payable in the years preceding the year in which this contract is dated are paid in full.

7. PROPERTY INSURANCE.
   (a) INSURED RISKS AND AMOUNT. Purchaser shall keep all buildings, improvements and fixtures now or later located on or a part of the Property insured against loss by fire, extended coverage perils, vandalism, malicious mischief and, if applicable, steam boiler explosion for at least the amount of _____. If any of the buildings, improvements or fixtures are located in a federally designated flood prone area, and if flood insurance is available for that area, Purchaser shall procure and maintain flood insurance in amounts reasonably satisfactory to Seller.
   (b) OTHER TERMS. The insurance policy shall contain a loss payable clause in favor of Seller which provides that Seller's right to recover under the insurance shall not be impaired by any acts or omissions of Purchaser or Seller, and that Seller shall otherwise be afforded all rights and privileges customarily provided a mortgagee under the so-called standard mortgage clause.
   (c) NOTICE OF DAMAGE. In the event of damage to the Property by fire or other casualty, Purchaser shall promptly give notice of such damage to Seller and the insurance company.

8. DAMAGE TO THE PROPERTY.
   (a) APPLICATION OF INSURANCE PROCEEDS. If the Property is damaged by fire or other casualty, the insurance proceeds paid on account of such damage shall be applied to payment of the amounts payable by Purchaser under this contract, even if such amounts are not then due to be paid, unless Purchaser makes a permitted election described in the next paragraph. Such amounts shall be first applied to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance of insurance proceeds, if any, shall be the property of Purchaser.

(b) PURCHASER'S ELECTION TO REBUILD. If Purchaser is not in default under this contract, or after curing any such default, and if the mortgagees in any prior mortgages and sellers in any prior contracts for deed do not require otherwise, Purchaser may elect to have that portion of such insurance proceeds necessary to repair, replace or restore the damaged Property (the repair work) deposited in escrow with a bank or title insurance company qualified to do business in the State of Minnesota, or such other party as may be mutually agreeable to Seller and Purchaser. The election may only be made by written notice to Seller within sixty days after the damage occurs. Also, the election will only be permitted if the plans and specifications and contracts for the repair work are approved by Seller, which approval Seller shall not unreasonably withhold or delay. If such a permitted election is made by Purchaser, Seller and Purchaser shall jointly deposit, when paid, such insurance proceeds into such escrow. If such insurance proceeds are insufficient for the repair work, Purchaser shall, before the commencement of the repair work, deposit into such escrow sufficient additional money to insure the full payment for the repair work. Even if the insurance proceeds are unavailable or are insuffficient to pay the cost of the repair work, Purchaser shall at all times be responsible to pay the full cost of the repair work. All escrowed funds shall be disbursed by the escrowee in accordance with generally accepted sound construction disbursement procedures. The costs incurred or to be incurred on account of such escrow shall be deposited by Purchaser into such escrow before the commencement of the repair work. Purchaser shall complete the repair work as soon as reasonably possible and in a good and workmanlike manner, and in any event the repair work shall be completed by Purchaser within one year after the damage occurs. If, following the completion of and payment for the repair work, there remain any undisbursed escrow funds, such funds shall be applied to payment of the amounts payable by Purchaser under this contract in accordance with paragraph 8 (a) above.

9. INJURY OR DAMAGE OCCURRING ON THE PROPERTY.
   (a) LIABILITY. Seller shall be free from liability and claims for damages by reason of injuries occurring on or after the date of this contract to any person or persons or property while on or about the Property. Purchaser shall defend and indemnify Seller from all liability, loss, costs and obligations, including reasonable attorneys' fees, on account of or arising out of any such injuries. However, Purchaser shall have no liability or obligation to Seller for such injuries which are caused by the negligence or intentional wrongful acts or omissions of Seller.
   (b) LIABILITY INSURANCE. Purchaser shall, at Purchaser's own expense, procure and maintain liability insurance against claims for bodily injury, death and property damage occurring on or about the Property in amounts reasonably satisfactory to Seller and naming Seller as an additional insured.
10. INSURANCE, GENERALLY. The insurance which Purchaser is required to procure and maintain pursuant to paragraphs 7 and 9 of this contract shall be issued by an insurance company or companies licensed to do business in the State of Minnesota and acceptable to Seller. The insurance shall be maintained by Purchaser at all times while any amount remains unpaid under this contract. The insurance policies shall provide for not less than ten days written notice to Seller before cancellation, non-renewal, termination or change in coverage, and Purchaser shall deliver to Seller a duplicate *original or certificate of such insurance policy or policies.*
11. CONDEMNATION. If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof shall be applied to payment of the amounts payable by Purchaser under this contract, even if such amounts are not then due to be paid. Such amounts shall be applied first to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance, if any, shall be the property of Purchaser.
12. WASTE, REPAIR AND LIENS. Purchaser shall not remove or demolish any buildings, improvements or fixtures now or later located on or a part of the Property, nor shall Purchaser commit or allow waste of the Property. Purchaser shall maintain the Property in good condition and repair. Purchaser shall not create or permit to accrue liens or adverse claims against the Property which constitute a lien or claim against Seller's interest in the Property. Purchaser shall pay to Seller all amounts, costs and expenses, including reasonable attorneys' fees, incurred by Seller to remove any such liens or adverse claims.
13. DEED AND MORTGAGE REGISTRY TAXES. Seller shall, upon Purchaser's full performance of this contract, pay the deed tax due upon the recording or filing of the deed to be delivered by Seller to Purchaser. The mortgage registry tax due upon the recording or filing of this contract shall be paid by the party who records or files this contract; however, this provision shall not impair the right of Seller to collect from Purchaser the amount of such tax actually paid by Seller as provided in the applicable law governing default and service of notice of termination of this contract.
14. NOTICE OF ASSIGNMENT. If either Seller or Purchaser assigns their interest in the Property, a copy of such assignment shall promptly be furnished to the non-assigning party.
15. PROTECTION OF INTERESTS. If Purchaser fails to pay any sum of money required under the terms of this contract or fails to perform any of Purchaser's obligations as set forth in this contract, Seller may, at Seller's option, pay the same or cause the same to be performed, or both, and the amounts so paid by Seller and the cost of such performance shall be payable at once, with interest at the rate stated in paragraph 4 of this contract, as an additional amount due Seller under this contract.
    If there now exists, or if Seller hereafter creates, suffers or permits to accrue, any mortgage, contract for deed, lien or encumbrance against the Property which is not herein expressly assumed by Purchaser, and provided Purchaser is not in default under this contract, Seller shall timely pay all amounts due thereon, and if Seller fails to do so, Purchaser may, at Purchaser's option, pay any such delinquent amounts and deduct the amounts paid from the installment(s) next coming due under this contract.
16. DEFAULT. The time of performance by Purchaser of the terms of this contract is an essential part of this contract. Should Purchaser fail to timely perform any of the terms of this contract, Seller may, at Seller's option, elect to declare this contract cancelled and terminated by notice to Purchaser in accordance with applicable law. All right, title and interest acquired under this contract by Purchaser shall then cease and terminate, and all improvements made upon the Property and all payments made by Purchaser pursuant to this contract shall belong to Seller as liquidated damages for breach of this contract. Neither the extension of the time for payment of any sum of money to be paid hereunder nor any waiver by Seller of Seller's rights to declare this contract forfeited by reason of any breach shall in any manner affect Seller's right to cancel this contract because of defaults subsequently occurring, and no extension of time shall be valid unless agreed to in writing. After service of notice of default and failure to cure such default within the period allowed by law, Purchaser shall, upon demand, surrender possession of the Property to Seller, but Purchaser shall be entitled to possession of the Property until the expiration of such period.
17. BINDING EFFECT. The terms of this contract shall run with the land and bind the parties hereto and their successors in interest.

18. HEADINGS. Headings of the paragraphs of this contract are for convenience only and do not define, limit or construe the contents of such paragraphs.

19. ASSESSMENTS BY OWNERS' ASSOCIATION. If the Property is subject to a recorded declaration providing for assessments to be levied against the Property by any owners' association, which assessments may become a lien against the Property if not paid, then:
(a) Purchaser shall promptly pay, when due, all assessments imposed by the owners' association or other governing body as required by the provisions of the declaration or other related documents; and
(b) So long as the owners' association maintains a master or blanket policy of insurance against fire, extended coverage perils and such other hazards and in such amounts as are required by this contract, then:
(i) Purchaser's obligation in this contract to maintain hazard insurance coverage on the Property is satisfied; and
(ii) The provisions in paragraph 8 of this contract regarding application of insurance proceeds shall be superceded by the provisions of the declaration or other related documents; and
(iii) In the event of a distribution of insurance proceeds in lieu of restoration or repair following an insured casualty loss to the Property, any such proceeds payable to Purchaser are hereby assigned and shall be paid to Seller for application to the sum secured by this contract, with the excess, if any, paid to Purchaser.

20. ADDITIONAL TERMS:

SELLER(S) PURCHASER(S)

State of Minnesota
} ss.
County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 19____, by _____.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

State of Minnesota
} ss.
County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 19____, by _____.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Tax Statements for the real property described in this instrument should be sent to

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

FAILURE TO RECORD OR FILE THIS CONTRACT FOR DEED MAY GIVE OTHER PARTIES PRIORITY OVER PURCHASER'S INTEREST IN THE PROPERTY.

4 MCAR S 1.5001 Contract for deed with joint tenants as purchasers. The recommended form for a contract for deed when the purchasers are joint tenants is contained in Exhibit 4 MCAR S 1.5001-1.

Exhibit 4 MCAR S 1.5001-1

CONTRACT FOR DEED Form No. 55-M Minnesota Uniform Conveyancing Blanks (1978) Miller-Davis Co., Minneapolis
(Individuals) to Joint Tenants

No delinquent taxes and transfer entered;
Certificate of Real Estate Value
( )filed ( )not required
_____, 19____.

_____
County Auditor

By _____
Deputy

(reserved for mortgage registry tax payment data)

(reserved for recording data)

MORTGAGE REGISTRY TAX DUE HEREON:

$_____

Date: _____, 19____

THIS CONTRACT FOR DEED is made on the above date by _____

_____, _____
(marital status)

Seller (whether one or more), and _____

_____, Purchasers, as joint tenants.

Seller and Purchasers agree to the following terms:

1. PROPERTY DESCRIPTION. Seller hereby sells, and Purchasers hereby buy, real property in _____ County, Minnesota, described as follows:

together with all hereditaments and appurtenances belonging thereto (the Property).

2. TITLE. Seller warrants that title to the Property is, on the date of this contract, subject only to the following exceptions:
   (a) Covenants, conditions, restrictions, declarations and easements of record, if any;
   (b) Reservations of minerals or mineral rights by the State of Minnesota, if any;
   (c) Building, zoning and subdivision laws and regulations;
   (d) The lien of real estate taxes and installments of special assessments which are payable by Purchasers pursuant to paragraph 6 of this contract; and
   (e) The following liens or encumbrances:

3. DELIVERY OF DEED AND EVIDENCE OF TITLE. Upon Purchasers' prompt and full performance of this contract, Seller shall:
   (a) Execute, acknowledge and deliver to Purchasers a _____ Deed, in recordable form, conveying marketable title to the Property to Purchasers, subject only to the following exceptions:
      (i) Those exceptions referred to in paragraph 2(a), (b), (c) and (d) of this contract;
      (ii) Liens, encumbrances, adverse claims or other matters which Purchasers have created, suffered or permitted to accrue after the date of this contract; and

(iii) The following liens or encumbrances:

; and

(b) Deliver to Purchasers the abstract of title to the Property or, if the title is registered, the owner's duplicate certificate of title.

4. PURCHASE PRICE. Purchasers shall pay to Seller, at _____, the sum of _____ ($_____), as and for the purchase price for the Property, payable as follows:

5. PREPAYMENT. Unless otherwise provided in this contract, Purchasers shall have the right to fully or partially prepay this contract at any time without penalty. Any partial prepayment shall be applied first to payment of amounts then due under this contract, including unpaid accrued interest, and the balance shall be applied to the principal installments to be paid in the inverse order of their maturity. Partial prepayment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments.

6. REAL ESTATE TAXES AND ASSESSMENTS. Purchasers shall pay, before penalty accrues, all real estate taxes and installments of special assessments assessed against the Property which are due and payable in the year 19___ and in all subsequent years. Real estate taxes and installments of special assessments which are due and payable in the year in which this contract is dated shall be paid as follows:

Seller warrants that the real estate taxes and installments of special assessments which were due and payable in the years preceding the year in which this contract is dated are paid in full.

7. PROPERTY INSURANCE.
   (a) INSURED RISKS AND AMOUNT. Purchasers shall keep all buildings, improvements and fixtures now or later located on or a part of the Property insured against loss by fire, extended coverage perils, vandalism, malicious mischief and, if applicable, steam boiler explosion for at least the amount of _____. If any of the buildings, improvements or fixtures are located in a federally designated flood prone area, and if flood insurance is available for that area, Purchasers shall procure and maintain flood insurance in amounts reasonably satisfactory to Seller.
   (b) OTHER TERMS. The insurance policy shall contain a loss payable clause in favor of Seller which provides that Seller's right to recover under the insurance shall not be impaired by any acts or omissions of Purchasers or Seller, and that Seller shall otherwise be afforded all rights and privileges customarily provided a mortgagee under the so-called standard mortgage clause.
   (c) NOTICE OF DAMAGE. In the event of damage to the Property by fire or other casualty, Purchasers shall promptly give notice of such damage to Seller and the insurance company.

8. DAMAGE TO THE PROPERTY.
   (a) *APPLICATION OF INSURANCE PROCEEDS.* If the Property is damaged by fire or other casualty, the insurance proceeds paid on account of such damage shall be applied to payment of the amounts payable by Purchasers under this contract, even if such amounts are not then due to be paid, unless Purchasers make a permitted election described in the next paragraph. Such amounts shall be first applied to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance of insurance proceeds, if any, shall be the property of Purchasers.

(b) PURCHASERS' ELECTION TO REBUILD. If Purchasers are not in default under this contract, or after curing any such default, and if the mortgagees in any prior mortgages and sellers in any prior contracts for deed do not require otherwise, Purchasers may elect to have that portion of such insurance proceeds necessary to repair, replace or restore the damaged Property (the repair work) deposited in escrow with a bank or title insurance company qualified to do business in the State of Minnesota, or such other party as may be mutually agreeable to Seller and Purchasers. The election may only be made by written notice to Seller within sixty days after the damage occurs. Also, the election will only be permitted if the plans and specifications and contracts for the repair work are approved by Seller, which approval Seller shall not unreasonably withhold or delay. If such a permitted election is made by Purchasers, Seller and Purchasers shall jointly deposit, when paid, such insurance proceeds into such escrow. If such insurance proceeds are insufficient for the repair work, Purchasers shall, before the commencement of the repair work, deposit into such escrow sufficient additional money to insure the full payment for the repair work. Even if the insurance proceeds are unavailable or are insuffficient to pay the cost of the repair work, Purchasers shall at all times be responsible to pay the full cost of the repair work. All escrowed funds shall be disbursed by the escrowee in accordance with generally accepted sound construction disbursement procedures. The costs incurred or to be incurred on account of such escrow shall be deposited by Purchasers into such escrow before the commencement of the repair work. Purchasers shall complete the repair work as soon as reasonably possible and in a good and workmanlike manner, and in any event the repair work shall be completed by Purchasers within one year after the damage occurs. If, following the completion of and payment for the repair work, there remain any undisbursed escrow funds, such funds shall be applied to payment of the amounts payable by Purchasers under this contract in accordance with paragraph 8 (a) above.

9. INJURY OR DAMAGE OCCURRING ON THE PROPERTY.
   (a) LIABILITY. Seller shall be free from liability and claims for damages by reason of injuries occurring on or after the date of this contract to any person or persons or property while on or about the Property. Purchasers shall defend and indemnify Seller from all liability, loss, costs and obligations, including reasonable attorneys' fees, on account of or arising out of any such injuries. However, Purchasers shall have no liability or obligation to Seller for such injuries which are caused by the negligence or intentional wrongful acts or omissions of Seller.
   (b) LIABILITY INSURANCE. Purchasers shall, at their own expense, procure and maintain liability insurance against claims for bodily injury, death and property damage occurring on or about the Property in amounts reasonably satisfactory to Seller and naming Seller as an additional insured.
10. INSURANCE, GENERALLY. The insurance which Purchasers are required to procure and maintain pursuant to paragraphs 7 and 9 of this contract shall be issued by an insurance company or companies licensed to do business in the State of Minnesota and acceptable to Seller. The insurance shall be maintained by Purchasers at all times while any amount remains unpaid under this contract. The insurance policies shall provide for not less than ten days written notice to Seller before cancellation, non-renewal, termination or change in coverage, and Purchasers shall deliver to Seller a duplicate original or certificate of such insurance policy or policies.
11. CONDEMNATION. If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof shall be applied to payment of the amounts payable by Purchasers under this contract, even if such amounts are not then due to be paid. Such amounts shall be applied first to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance, if any, shall be the property of Purchasers.
12. WASTE, REPAIR AND LIENS. Purchasers shall not remove or demolish any buildings, improvements or fixtures now or later located on or a part of the Property, nor shall Purchasers commit or allow waste of the Property. Purchasers shall maintain the Property in good condition and repair. Purchasers shall not create or permit to accrue liens or adverse claims against the Property which constitute a lien or claim against Seller's interest in the Property. Purchasers shall pay to Seller all amounts, costs and expenses, including reasonable attorneys' fees, incurred by Seller to remove any such liens or adverse claims.
13. DEED AND MORTGAGE REGISTRY TAXES. Seller shall, upon Purchasers' full performance of this contract, pay the deed tax due upon the recording or filing of the deed to be delivered by Seller to Purchasers. The mortgage registry tax due upon the recording or filing of this contract shall be paid by the party who records or files this contract; however, this provision shall not impair the right of Seller to collect from Purchasers the amount of such tax actually paid by Seller as provided in the applicable law governing default and service of notice of termination of this contract.
14. NOTICE OF ASSIGNMENT. If either Seller or Purchasers assign their interest in the Property, a copy of such assignment shall promptly be furnished to the non-assigning party.
15. PROTECTION OF INTERESTS. If Purchasers fail to pay any sum of money required under the terms of this contract or fail to perform any of their obligations as set forth in this contract, Seller may, at Seller's option, pay the same or cause the same to be performed, or both, and the amounts so paid by Seller and the cost of such performance shall be payable at once, with interest at the rate stated in paragraph 4 of this contract, as an additional amount due Seller under this contract.
    If there now exists, or if Seller hereafter creates, suffers or permits to accrue, any mortgage, contract for deed, lien or encumbrance against the Property which is not herein expressly assumed by Purchasers, and provided Purchasers are not in default under this contract, Seller shall timely pay all amounts due thereon, and if Seller fails to do so, Purchasers may, at their option, pay any such delinquent amounts and deduct the amounts paid from the installment(s) next coming due under this contract.
16. DEFAULT. The time of performance by Purchasers of the terms of this contract is an essential part of this contract. Should Purchasers fail to timely perform any of the terms of this contract, Seller may, at Seller's option, elect to declare this contract cancelled and terminated by notice to Purchasers in accordance with applicable law. All right, title and interest acquired under this contract by Purchasers shall then cease and terminate, and all improvements made upon the Property and all payments made by Purchasers pursuant to this contract shall belong to Seller as liquidated damages for breach of this contract. Neither the extension of the time for payment of any sum of money to be paid hereunder nor any waiver by Seller of Seller's rights to declare this contract forfeited by reason of any breach shall in any manner affect Seller's right to cancel this contract because of defaults subsequently occurring, and no extension of time shall be valid unless agreed to in writing. After service of notice of default and failure to cure such default within the period allowed by law, Purchasers shall, upon demand, surrender possession of the Property to Seller, but Purchasers shall be entitled to possession of the Property until the expiration of such period.
17. BINDING EFFECT. The terms of this contract shall run with the land and bind the parties hereto and their successors in interest.

18. HEADINGS. Headings of the paragraphs of this contract are for convenience only and do not define, limit or construe the contents of such paragraphs.

19. ASSESSMENTS BY OWNERS' ASSOCIATION. If the Property is subject to a recorded declaration providing for assessments to be levied against the Property by any owners' association, which assessments may become a lien against the Property if not paid, then:
(a) Purchasers shall promptly pay, when due, all assessments imposed by the owners' association or other governing body as required by the provisions of the declaration or other related documents; and
(b) So long as the owners' association maintains a master or blanket policy of insurance against fire, extended coverage perils and such other hazards and in such amounts as are required by this contract, then:
(i) Purchasers' obligation in this contract to maintain hazard insurance coverage on the Property is satisfied; and
(ii) The provisions in paragraph 8 of this contract regarding application of insurance proceeds shall be superceded by the provisions of the declaration or other related documents; and
(iii) In the event of a distribution of insurance proceeds in lieu of restoration or repair following an insured casualty loss to the Property, any such proceeds payable to Purchasers are hereby assigned and shall be paid to Seller for application to the sum secured by this contract, with the excess, if any, paid to Purchasers.

20. ADDITIONAL TERMS:

SELLER(S) PURCHASERS

_____ _____

_____ _____

_____ _____

_____ _____

State of Minnesota }
} ss.
County of _____ }

The foregoing instrument was acknowledged before me this ____ day of _____, 19____, by _____.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

State of Minnesota }
} ss.
County of _____ }

The foregoing instrument was acknowledged before me this ____ day of _____, 19____, by _____.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Tax Statements for the real property described in this instrument should be sent to:

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

FAILURE TO RECORD OR FILE THIS CONTRACT FOR DEED MAY GIVE OTHER PARTIES PRIORITY OVER PURCHASERS' INTEREST IN THE PROPERTY.

AR02255T

4 MCAR S 1.5002 Contract for deed from a corporation or partnership seller. The recommended form for a contract for deed when there is a corporation or partnership seller is contained in Exhibit 4 MCAR S 1.5002-1.

Exhibit 4 MCAR S 1.5002-1

CONTRACT FOR DEED Form No. 56-M Minnesota Uniform Conveyancing Blanks (1978) Miller-Davis Co., Minneapolis

Corporation or Partnership Seller

No delinquent taxes and transfer entered;
Certificate of Real Estate Value
( )filed ( )not required
_____, 19__.

_____
County Auditor

By _____
Deputy

(reserved for mortgage registry tax payment data)

(reserved for recording data)

MORTGAGE REGISTRY TAX DUE HEREON:

$_____

Date: _____, 19__

THIS CONTRACT FOR DEED is made on the above date by _____

_____, a _____ under the laws of _____

Seller, and _____

_____. Purchaser (whether one or more).

Seller and Purchaser agree to the following terms:

1. PROPERTY DESCRIPTION. Seller hereby sells, and Purchaser hereby buys, real property in _____ County, Minnesota, described as follows:

together with all hereditaments and appurtenances belonging thereto (the Property).

2. TITLE. Seller warrants that title to the Property is, on the date of this contract, subject only to the following exceptions:
   (a) Covenants, conditions, restrictions, declarations and easements of record, if any;
   (b) Reservations of minerals or mineral rights by the State of Minnesota, if any;
   (c) Building, zoning and subdivision laws and regulations;
   (d) The lien of real estate taxes and installments of special assessments which are payable by Purchaser pursuant to paragraph 6 of this contract; and
   (e) The following liens or encumbrances:

3. DELIVERY OF DEED AND EVIDENCE OF TITLE. Upon Purchaser's prompt and full performance of this contract, Seller shall:
   (a) Execute, acknowledge and deliver to Purchaser a _____ Deed, in recordable form, conveying marketable title to the Property to Purchaser, subject only to the following exceptions:
      (i) Those exceptions referred to in paragraph 2(a), (b), (c) and (d) of this contract;
      (ii) Liens, encumbrances, adverse claims or other matters which Purchaser has created, suffered or permitted to accrue after the date of this contract; and

(iii) The following liens or encumbrances:

; and

(b) Deliver to Purchaser the abstract of title to the Property or, if the title is registered, the owner's duplicate certificate of title.

4. PURCHASE PRICE. Purchaser shall pay to Seller, at _____, the sum of _____ ($_____), as and for the purchase price for the Property, payable as follows:

5. PREPAYMENT. Unless otherwise provided in this contract, Purchaser shall have the right to fully or partially prepay this contract at any time without penalty. Any partial prepayment shall be applied first to payment of amounts then due under this contract, including unpaid accrued interest, and the balance shall be applied to the principal installments to be paid in the inverse order of their maturity. Partial prepayment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments.

6. REAL ESTATE TAXES AND ASSESSMENTS. Purchaser shall pay, before penalty accrues, all real estate taxes and installments of special assessments assessed against the Property which are due and payable in the year 19___ and in all subsequent years. Real estate taxes and installments of special assessments which are due and payable in the year in which this contract is dated shall be paid as follows:

Seller warrants that the real estate taxes and installments of special assessments which were due and payable in the years preceding the year in which this contract is dated are paid in full.

7. PROPERTY INSURANCE.
   (a) INSURED RISKS AND AMOUNT. Purchaser shall keep all buildings, improvements and fixtures now or later located on or a part of the Property insured against loss by fire, extended coverage perils, vandalism, malicious mischief and, if applicable, steam boiler explosion for at least the amount of _____. If any of the buildings, improvements or fixtures are located in a federally designated flood prone area, and if flood insurance is available for that area, Purchaser shall procure and maintain flood insurance in amounts reasonably satisfactory to Seller.
   (b) OTHER TERMS. The insurance policy shall contain a loss payable clause in favor of Seller which provides that Seller's right to recover under the insurance shall not be impaired by any acts or omissions of Purchaser or Seller, and that Seller shall otherwise be afforded all rights and privileges customarily provided a mortgagee under the so-called standard mortgage clause.
   (c) NOTICE OF DAMAGE. In the event of damage to the Property by fire or other casualty, Purchaser shall promptly give notice of such damage to Seller and the insurance company.

8. DAMAGE TO THE PROPERTY.
   (a) APPLICATION OF INSURANCE PROCEEDS. If the Property is damaged by fire or other casualty, the insurance proceeds paid on account of such damage shall be applied to payment of the amounts payable by Purchaser under this contract, even if such amounts are not then due to be paid, unless Purchaser makes a permitted election described in the next paragraph. Such amounts shall be first applied to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance of insurance proceeds, if any, shall be the property of Purchaser.

(b) PURCHASER'S ELECTION TO REBUILD. If Purchaser is not in default under this contract, or after curing any such default, and if the mortgagees in any prior mortgages and sellers in any prior contracts for deed do not require otherwise, Purchaser may elect to have that portion of such insurance proceeds necessary to repair, replace or restore the damaged Property (the repair work) deposited in escrow with a bank or title insurance company qualified to do business in the State of Minnesota, or such other party as may be mutually agreeable to Seller and Purchaser. The election may only be made by written notice to Seller within sixty days after the damage occurs. Also, the election will only be permitted if the plans and specifications and contracts for the repair work are approved by Seller, which approval Seller shall not unreasonably withhold or delay. If such a permitted election is made by Purchaser, Seller and Purchaser shall jointly deposit, when paid, such insurance proceeds into such escrow. If such insurance proceeds are insufficient for the repair work, Purchaser shall, before the commencement of the repair work, deposit into such escrow sufficient additional money to insure the full payment for the repair work. Even if the insurance proceeds are unavailable or are insuffficient to pay the cost of the repair work, Purchaser shall at all times be responsible to pay the full cost of the repair work. All escrowed funds shall be disbursed by the escrowee in accordance with generally accepted sound construction disbursement procedures. The costs incurred or to be incurred on account of such escrow shall be deposited by Purchaser into such escrow before the commencement of the repair work. Purchaser shall complete the repair work as soon as reasonably possible and in a good and workmanlike manner, and in any event the repair work shall be completed by Purchaser within one year after the damage occurs. If, following the completion of and payment for the repair work, there remain any undisbursed escrow funds, such funds shall be applied to payment of the amounts payable by Purchaser under this contract in accordance with paragraph 8 (a) above.

9. INJURY OR DAMAGE OCCURRING ON THE PROPERTY.
   (a) LIABILITY. Seller shall be free from liability and claims for damages by reason of injuries occurring on or after the date of this contract to any person or persons or property while on or about the Property. Purchaser shall defend and indemnify Seller from all liability, loss, costs and obligations, including reasonable attorneys' fees, on account of or arising out of any such injuries. However, Purchaser shall have no liability or obligation to Seller for such injuries which are caused by the negligence or intentional wrongful acts or omissions of Seller.
   (b) LIABILITY INSURANCE. Purchaser shall, at Purchaser's own expense, procure and maintain liability insurance against claims for bodily injury, death and property damage occuring on or about the Property in amounts reasonably satisfactory to Seller and naming Seller as an additional insured.
10. INSURANCE, GENERALLY. The insurance which Purchaser is required to procure and maintain pursuant to paragraphs 7 and 9 of this contract shall be issued by an insurance company or companies licensed to do business in the State of Minnesota and acceptable to Seller. The insurance shall be maintained by Purchaser at all times while any amount remains unpaid under this contract. The insurance policies shall provide for not less than ten days written notice to Seller before cancellation, non-renewal, termination or change in coverage, and Purchaser shall deliver to Seller a duplicate original or certificate of such insurance policy or policies.
11. CONDEMNATION. If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof shall be applied to payment of the amounts payable by Purchaser under this contract, even if such amounts are not then due to be paid. Such amounts shall be applied first to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance, if any, shall be the property of Purchaser.
12. WASTE, REPAIR AND LIENS. Purchaser shall not remove or demolish any buildings, improvements or fixtures now or later located on or a part of the Property, nor shall Purchaser commit or allow waste of the Property. Purchaser shall maintain the Property in good condition and repair. Purchaser shall not create or permit to accrue liens or adverse claims against the Property which constitute a lien or claim against Seller's interest in the Property. Purchaser shall pay to Seller all amounts, costs and expenses, including reasonable attorneys' fees, incurred by Seller to remove any such liens or adverse claims.
13. DEED AND MORTGAGE REGISTRY TAXES. Seller shall, upon Purchaser's full performance of this contract, pay the deed tax due upon the recording or filing of the deed to be delivered by Seller to Purchaser. The mortgage registry tax due upon the recording or filing of this contract shall be paid by the party who records or files this contract; however, this provision shall not impair the right of Seller to collect from Purchaser the amount of such tax actually paid by Seller as provided in the applicable law governing default and service of notice of termination of this contract.
14. NOTICE OF ASSIGNMENT. If either Seller or Purchaser assigns their interest in the Property, a copy of such assignment shall promptly be furnished to the non-assigning party.
15. PROTECTION OF INTERESTS. If Purchaser fails to pay any sum of money required under the terms of this contract or fails to perform any of Purchaser's obligations as set forth in this contract, Seller may, at Seller's option, pay the same or cause the same to be performed, or both, and the amounts so paid by Seller and the cost of such performance shall be payable at once, with interest at the rate stated in paragraph 4 of this contract, as an additional amount due Seller under this contract.
    If there now exists, or if Seller hereafter creates, suffers or permits to accrue, any mortgage, contract for deed, lien or encumbrance against the Property which is not herein expressly assumed by Purchaser, and provided Purchaser is not in default under this contract, Seller shall timely pay all amounts due thereon, and if Seller fails to do so, Purchaser may, at Purchaser's option, pay any such delinquent amounts and deduct the amounts paid from the installment(s) next coming due under this contract.
16. DEFAULT. The time of performance by Purchaser of the terms of this contract is an essential part of this contract. Should Purchaser fail to timely perform any of the terms of this contract, Seller may, at Seller's option, elect to declare this contract cancelled and terminated by notice to Purchaser in accordance with applicable law. All right, title and interest acquired under this contract by Purchaser shall then cease and terminate, and all improvements made upon the Property and all payments made by Purchaser pursuant to this contract shall belong to Seller as liquidated damages for breach of this contract. Neither the extension of the time for payment of any sum of money to be paid hereunder nor any waiver by Seller of Seller's rights to declare this contract forfeited by reason of any breach shall in any manner affect Seller's right to cancel this contract because of defaults subsequently occurring, and no extension of time shall be valid unless agreed to in writing. After service of notice of default and failure to cure such default within the period allowed by law, Purchaser shall, upon demand, surrender possession of the Property to Seller, but Purchaser shall be entitled to possession of the Property until the expiration of such period.
17. BINDING EFFECT. The terms of this contract shall run with the land and bind the parties hereto and their successors in interest.

18. HEADINGS. Headings of the paragraphs of this contract are for convenience only and do not define, limit or construe the contents of such paragraphs.

19. ASSESSMENTS BY OWNERS' ASSOCIATION. If the Property is subject to a recorded declaration providing for assessments to be levied against the Property by any owners' association, which assessments may become a lien against the Property if not paid, then:
(a) Purchaser shall promptly pay, when due, all assessments imposed by the owners' association or other governing body as required by the provisions of the declaration or other related documents; and
(b) So long as the owners' association maintains a master or blanket policy of insurance against fire, extended coverage perils and such other hazards and in such amounts as are required by this contract, then:
(i) Purchaser's obligation in this contract to maintain hazard insurance coverage on the Property is satisfied; and
(ii) The provisions in paragraph 8 of this contract regarding application of insurance proceeds shall be superceded by the provisions of the declaration or other related documents; and
(iii) In the event of a distribution of insurance proceeds in lieu of restoration or repair following an insured casualty loss to the Property, any such proceeds payable to Purchaser are hereby assigned and shall be paid to Seller for application to the sum secured by this contract, with the excess, if any, paid to Purchaser.

20. ADDITIONAL TERMS:

SELLER

_____

By _____

Its _____

By _____

Its _____

PURCHASER(S)

_____

_____

_____

_____

_____

State of Minnesota }
ss.
County of _____ }

The foregoing instrument was acknowledged before me this ____ day of _____, 19____,
by _____ and _____,
the _____ and _____ of _____
a _____ under the laws of _____
on behalf of the _____.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

State of Minnesota }
ss.
County of _____ }

The foregoing instrument was acknowledged before me this ____ day of _____, 19____,
by _____
_____.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Tax Statements for the real property described in this instrument should be sent to:

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

FAILURE TO RECORD OR FILE THIS CONTRACT FOR DEED MAY GIVE OTHER PARTIES PRIORITY OVER PURCHASER'S INTEREST IN THE PROPERTY.

4 MCAR S 1.5003 Contract for deed from a corporation or partnership to joint tenants. The recommended form for a contract for deed from a corporation or partnership to joint tenants is contained in Exhibit 4 MCAR S 1.5003-1.

Exhibit 4 MCAR S 1.5003-1

CONTRACT FOR DEED Form No. 57-M Minnesota Uniform Conveyancing Blanks (1978) Miller-Davis Co., Minneapolis
Corporation or Partnership to Joint Tenants

No delinquent taxes and transfer entered;
Certificate of Real Estate Value
( )filed ( )not required
_____, 19__.

_____
County Auditor

By _____
Deputy

(reserved for mortgage registry tax payment data)

(reserved for recording data)

MORTGAGE REGISTRY TAX DUE HEREON:

$_____

Date: _____, 19__

THIS CONTRACT FOR DEED is made on the above date by _____

_____, a _____ under the laws of _____

Seller, and _____

_____, Purchasers, as joint tenants.

Seller and Purchasers agree to the following terms:

1. PROPERTY DESCRIPTION. Seller hereby sells, and Purchasers hereby buy, real property in _____ County, Minnesota, described as follows:

together with all hereditaments and appurtenances belonging thereto (the Property).

2. TITLE. Seller warrants that title to the Property is, on the date of this contract, subject only to the following exceptions:
   (a) Covenants, conditions, restrictions, declarations and easements of record, if any;
   (b) Reservations of minerals or mineral rights by the State of Minnesota, if any;
   (c) Building, zoning and subdivision laws and regulations;
   (d) The lien of real estate taxes and installments of special assessments which are payable by Purchasers pursuant to paragraph 6 of this contract; and
   (e) The following liens or encumbrances:

3. DELIVERY OF DEED AND EVIDENCE OF TITLE. Upon Purchasers' prompt and full performance of this contract, Seller shall:
   (a) Execute, acknowledge and deliver to Purchasers a _____ Deed, in recordable form, conveying marketable title to the Property to Purchasers, subject only to the following exceptions:
      (i) Those exceptions referred to in paragraph 2(a), (b), (c) and (d) of this contract,
      (ii) Liens, encumbrances, adverse claims or other matters which Purchasers have created, suffered or permitted to accrue after the date of this contract; and

(iii) The following liens or encumbrances:

; and

(b) Deliver to Purchasers the abstract of title to the Property or, if the title is registered, the owner's duplicate certificate of title.

4. PURCHASE PRICE. Purchasers shall pay to Seller, at _____, the sum of _____ ($_____), as and for the purchase price for the Property, payable as follows:

5. PREPAYMENT. Unless otherwise provided in this contract, Purchasers shall have the right to fully or partially prepay this contract at any time without penalty. Any partial prepayment shall be applied first to payment of amounts then due under this contract, including unpaid accrued interest, and the balance shall be applied to the principal installments to be paid in the inverse order of their maturity. Partial prepayment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments.

6. REAL ESTATE TAXES AND ASSESSMENTS. Purchasers shall pay, before penalty accrues, all real estate taxes and installments of special assessments assessed against the Property which are due and payable in the year 19__ and in all subsequent years. Real estate taxes and installments of special assessments which are due and payable in the year in which this contract is dated shall be paid as follows:

Seller warrants that the real estate taxes and installments of special assessments which were due and payable in the years preceding the year in which this contract is dated are paid in full.

7. PROPERTY INSURANCE.
   (a) INSURED RISKS AND AMOUNT. Purchasers shall keep all buildings, improvements and fixtures now or later located on or a part of the Property insured against loss by fire, extended coverage perils, vandalism, malicious mischief and, if applicable, steam boiler explosion for at least the amount of _____. If any of the buildings, improvements or fixtures are located in a federally designated flood prone area, and if flood insurance is available for that area, Purchasers shall procure and maintain flood insurance in amounts reasonably satisfactory to Seller.
   (b) OTHER TERMS. The insurance policy shall contain a loss payable clause in favor of Seller which provides that Seller's right to recover under the insurance shall not be impaired by any acts or omissions of Purchasers or Seller, and that Seller shall otherwise be afforded all rights and privileges customarily provided a mortgagee under the so-called standard mortgage clause.
   (c) NOTICE OF DAMAGE. In the event of damage to the Property by fire or other casualty, Purchasers shall promptly give notice of such damage to Seller and the insurance company.

8. DAMAGE TO THE PROPERTY.
   (a) APPLICATION OF INSURANCE PROCEEDS. If the Property is damaged by fire or other casualty, the insurance proceeds paid on account of such damage shall be applied to payment of the amounts payable by Purchasers under this contract, even if such amounts are not then due to be paid, unless Purchasers make a permitted election described in the next paragraph. Such amounts shall be first applied to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance of insurance proceeds, if any, shall be the property of Purchasers.

(b) PURCHASERS' ELECTION TO REBUILD. If Purchasers are not in default under this contract, or after curing any such default, and if the mortgagees in any prior mortgages and sellers in any prior contracts for deed do not require otherwise, Purchasers may elect to have that portion of such insurance proceeds necessary to repair, replace or restore the damaged Property (the repair work) deposited in escrow with a bank or title insurance company qualified to do business in the State of Minnesota, or such other party as may be mutually agreeable to Seller and Purchasers. The election may only be made by written notice to Seller within sixty days after the damage occurs. Also, the election will only be permitted if the plans and specifications and contracts for the repair work are approved by Seller, which approval Seller shall not unreasonably withhold or delay. If such a permitted election is made by Purchasers, Seller and Purchasers shall jointly deposit, when paid, such insurance proceeds into such escrow. If such insurance proceeds are insufficient for the repair work, Purchasers shall, before the commencement of the repair work, deposit into such escrow sufficient additional money to insure the full payment for the repair work. Even if the insurance proceeds are unavailable or are insuffficient to pay the cost of the repair work, Purchasers shall at all times be responsible to pay the full cost of the repair work. All escrowed funds shall be disbursed by the escrowee in accordance with generally accepted sound construction disbursement procedures. The costs incurred or to be incurred on account of such escrow shall be deposited by Purchasers into such escrow before the commencement of the repair work. Purchasers shall complete the repair work as soon as reasonably possible and in a good and workmanlike manner, and in any event the repair work shall be completed by Purchasers within one year after the damage occurs. If, following the completion of and payment for the repair work, there remain any undisbursed escrow funds, such funds shall be applied to payment of the amounts payable by Purchasers under this contract in accordance with paragraph 8 (a) above.

9. INJURY OR DAMAGE OCCURRING ON THE PROPERTY.
   (a) LIABILITY. Seller shall be free from liability and claims for damages by reason of injuries occurring on or after the date of this contract to any person or persons or property while on or about the Property. Purchasers shall defend and indemnify Seller from all liability, loss, costs and obligations, including reasonable attorneys' fees, on account of or arising out of any such injuries. However, Purchasers shall have no liability or obligation to Seller for such injuries which are caused by the negligence or intentional wrongful acts or omissions of Seller.
   (b) LIABILITY INSURANCE. Purchasers shall, at their own expense, procure and maintain liability insurance against claims for bodily injury, death and property damage occurring on or about the Property in amounts reasonably satisfactory to Seller and naming Seller as an additional insured.
10. INSURANCE, GENERALLY. The insurance which Purchasers are required to procure and maintain pursuant to paragraphs 7 and 9 of this contract shall be issued by an insurance company or companies licensed to do business in the State of Minnesota and acceptable to Seller. The insurance shall be maintained by Purchasers at all times while any amount remains unpaid under this contract. The insurance policies shall provide for not less than ten days written notice to Seller before cancellation, non-renewal, termination or change in coverage, and Purchasers shall deliver to Seller a duplicate original or certificate of such insurance policy or policies.
11. CONDEMNATION. If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof shall be applied to payment of the amounts payable by Purchasers under this contract, even if such amounts are not then due to be paid. Such amounts shall be applied first to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance, if any, shall be the property of Purchasers.
12. WASTE, REPAIR AND LIENS. Purchasers shall not remove or demolish any buildings, improvements or fixtures now or later located on or a part of the Property, nor shall Purchasers commit or allow waste of the Property. Purchasers shall maintain the Property in good condition and repair. Purchasers shall not create or permit to accrue liens or adverse claims against the Property which constitute a lien or claim against Seller's interest in the Property. Purchasers shall pay to Seller all amounts, costs and expenses, including reasonable attorneys' fees, incurred by Seller to remove any such liens or adverse claims.
13. DEED AND MORTGAGE REGISTRY TAXES. Seller shall, upon Purchasers' full performance of this contract, pay the deed tax due upon the recording or filing of the deed to be delivered by Seller to Purchasers. The mortgage registry tax due upon the recording or filing of this contract shall be paid by the party who records or files this contract; however, this provision shall not impair the right of Seller to collect from Purchasers the amount of such tax actually paid by Seller as provided in the applicable law governing default and service of notice of termination of this contract.
14. NOTICE OF ASSIGNMENT. If either Seller or Purchasers assign their interest in the Property, a copy of such assignment shall promptly be furnished to the non-assigning party.
15. PROTECTION OF INTERESTS. If Purchasers fail to pay any sum of money required under the terms of this contract or fail to perform any of their obligations as set forth in this contract, Seller may, at Seller's option, pay the same or cause the same to be performed, or both, and the amounts so paid by Seller and the cost of such performance shall be payable at once, with interest at the rate stated in paragraph 4 of this contract, as an additional amount due Seller under this contract.
    If there now exists, or if Seller hereafter creates, suffers or permits to accrue, any mortgage, contract for deed, lien or encumbrance against the Property which is not herein expressly assumed by Purchasers, and provided Purchasers are not in default under this contract, Seller shall timely pay all amounts due thereon, and if Seller fails to do so, Purchasers may, at their option, pay any such delinquent amounts and deduct the amounts paid from the installment(s) next coming due under this contract.
16. DEFAULT. The time of performance by Purchasers of the terms of this contract is an essential part of this contract. Should Purchasers fail to timely perform any of the terms of this contract, Seller may, at Seller's option, elect to declare this contract cancelled and terminated by notice to Purchasers in accordance with applicable law. All right, title and interest acquired under this contract by Purchasers shall then cease and terminate, and all improvements made upon the Property and all payments made by Purchasers pursuant to this contract shall belong to Seller as liquidated damages for breach of this contract. Neither the extension of the time for payment of any sum of money to be paid hereunder nor any waiver by Seller of Seller's rights to declare this contract forfeited by reason of any breach shall in any manner affect Seller's right to cancel this contract because of defaults subsequently occurring, and no extension of time shall be valid unless agreed to in writing. After service of notice of default and failure to cure such default within the period allowed by law, Purchasers shall, upon demand, surrender possession of the Property to Seller, but Purchasers shall be entitled to possession of the Property until the expiration of such period.
17. BINDING EFFECT. The terms of this contract shall run with the land and bind the parties hereto and their successors in interest.

18. *HEADINGS. Headings of the paragraphs of this contract are for convenience only and do not define, limit or construe the contents of such paragraphs.*

19. ASSESSMENTS BY OWNERS' ASSOCIATION. If the Property is subject to a recorded declaration providing for assessments to be levied against the Property by any owners' association, which assessments may become a lien against the Property if not paid, then:
(a) Purchasers shall promptly pay, when due, all assessments imposed by the owners' association or other governing body as required by the provisions of the declaration or other related documents; and
(b) So long as the owners' association maintains a master or blanket policy of insurance against fire, extended coverage perils and such other hazards and in such amounts as are required by this contract, then:
(i) Purchasers' obligation in this contract to maintain hazard insurance coverage on the Property is satisfied; and
(ii) The provisions in paragraph 8 of this contract regarding application of insurance proceeds shall be superceded by the provisions of the declaration or other related documents; and
(iii) In the event of a distribution of insurance proceeds in lieu of restoration or repair following an insured casualty loss to the Property, any such proceeds payable to Purchasers are hereby assigned and shall be paid to Seller for application to the sum secured by this contract, with the excess, if any, paid to Purchasers.

20. ADDITIONAL TERMS:

SELLER	PURCHASERS
_____	_____
By _____	_____
Its _____	_____
By _____	_____
Its _____	_____

State of Minnesota } ss.
County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 19____,
by _____ and _____,
the _____ and _____ of _____,
a _____ under the laws of _____,
on behalf of the _____

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

State of Minnesota } ss.
County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 19____,
by _____
_____.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Tax Statements for the real property described in this instrument should be sent to:

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

FAILURE TO RECORD OR FILE THIS CONTRACT FOR DEED MAY GIVE OTHER PARTIES PRIORITY OVER PURCHASERS' INTEREST IN THE PROPERTY.

ARD2255T

4 MCAR S 1.5004 Assignment of contract for deed by an individual. The recommended form for an assignment of a contract for deed by an individual seller, purchaser, or assignee is contained in Exhibit 4 MCAR S 1.5004-1.

Exhibit 4 MCAR S 1.5004-1

ASSIGNMENT OF CONTRACT FOR DEED
By Individual Seller, Purchaser or Assignee

Form No. 58—M

Miller-Davis Co., Minneapolis
Minnesota Uniform Conveyancing Blanks (1981)

No delinquent taxes and transfer entered;
Certificate of Real Estate Value
( )filed ( )not required

_____, 19___

_____
County Auditor

By_____
Deputy

(reserved for recording data)

Date: _____, 19___

FOR VALUABLE CONSIDERATION, _____
(Marital status)

Assignor (whether one or more), hereby sells, assigns and transfers unto _____,

Assignee (whether one or more), the _____ interest in that certain
(Seller's or Purchaser's)

Contract for Deed dated the ____ day of _____, 19___ made by_____,

as Seller, and _____,

as Purchaser, recorded and/or filed in the office(s) of the County Recorder and/or Registrar of Titles in and for the County of _____, State of Minnesota, on the ____ day of_____ 19___ as (Document No._____ in Book ____ of_____ (Recording information of county Recorder), page_____) and/or (Document No._____ in Volume_____ (Title information—Registrar of Titles) page _____)

for the sale and conveyance of real property in said County and State, described as follows:

(If more space is needed, continue on back)

Subject to all the covenants of Assignor in said Contract for Deed contained, which Assignee hereby assumes and agrees to keep and perform.

Assignor hereby covenants that there remains unpaid under said Contract for Deed the sum of $_____ with interest thereon from the ____day of_____, 19___ and that Assignor has good right to sell, transfer and assign said Contract for Deed.

ASSIGNOR(S)

_____

_____

State of Minnesota)
) ss.
County of _____)

_____

_____

The foregoing instrument was acknowledged before me this____day of_____, 19____ by_____

_____

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

Tax Statements for the real property described in this instrument should be sent to (Include name and address of Assignee)

4 MCAR S 1.5005 Assignment of contract for deed by a corporation or partnership. The recommended form for an assignment of a contract for deed by a corporate or partnership seller, purchaser, or assignee is contained in Exhibit 4 MCAR S 1.5005-1.

Exhibit 4 MCAR S 1.5005-1

ASSIGNMENT OF CONTRACT FOR DEED
By Corporate or Partnership Seller, Purchaser or Assignee

Form No. 59-M

Miller-Dove Co., Minneapolis
Minnesota Uniform Conveyancing Blanks (1981)

No delinquent taxes and transfer entered;
Certificate of Real Estate Value
( )filed ( )not required

_____, 19___

_____
County Auditor

By _____
Deputy

(reserved for recording data)

Date: _____, 19___

FOR VALUABLE CONSIDERATION, _____,

a _____ under the laws of _____,

Assignor, hereby sells, assigns and transfers unto _____,

Assignee (whether one or more), the _____ interest in that certain
(Seller's or Purchaser's)

Contract for Deed dated the ____ day of _____, 19___, made by _____,

as Seller, and _____,

as Purchaser, recorded and/or filed in the office(s) of the County Recorder and/or Registrar of Titles in and for the County of _____, State of Minnesota, on the ____ day of _____, 19___ as (Document No. _____
in Book ____ of _____ (Recording information—County Recorder), page _____) and/or
(Document No. _____ in Volume _____ page _____)
(Filing information—Registrar of Titles)

for the sale and conveyance of real property in said County and State, described as follows:

(If more space is needed, continue on back)

Subject to all the covenants of Assignor in said Contract for Deed contained, which Assignee hereby assumes and agrees to keep and perform.

Assignor hereby covenants that there remains unpaid under said Contract for Deed the sum of $_____ with interest thereon from the ____ day of _____, 19___, and that Assignor has good right to sell, transfer and assign said Contract for Deed.

ASSIGNOR

_____

By _____
Its _____

State of Minnesota)
) ss. By _____
County of _____) Its _____

The foregoing was acknowledged before me this ____ day of _____, 19___,
by _____ and _____,
the _____ and _____
of _____, a _____
under the laws of _____, on behalf of the _____

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

Tax Statements for the real property described in this instrument should be sent to (Include name and address of Assignee):

ARO 2255T

4 MCAR S 1.5006 Affidavit of identity and survivorship. The recommended form for an affidavit of identity and survivorship for death occurring after December 31, 1979 is contained in Exhibit 4 MCAR S 1.5006-1.

Exhibit 4 MCAR S 1.5006-1

AFFIDAVIT OF IDENTITY AND SURVIVORSHIP FOR DEATH OCCURRING AFTER DEC. 31, 1979 Form No. 119-M Miller-Davis Co., Minneapolis Minnesota Uniform Conveyancing Blanks (1981)

Transfer entered	Recording Data
_____, 19___ _____ County Auditor By _____ Deputy	

STATE OF MINNESOTA,

COUNTY OF _____

NAME OF DECEDENT

_____

I, _____ and _____
Name of Affiant Address of Affiant

being first duly sworn, on oath state from personal knowledge:

That the above named decedent is the person named in the certified copy of Certificate of Death attached hereto and made a part hereof.

That the name(s) of the survivor(s) is/are _____

That said decedent on date of death was an owner as a joint tenant/life tenant of the land legally described as follows:

(If more space is needed, continue on back)

as shown by instrument recorded in Book _____ of _____ Page _____, or as Document No. _____ in the office of the County Recorder of _____ County, Minnesota, or as shown on Certificate of Title No. _____, Files of the Registrar of Titles of _____ County, Minnesota.

_____
Signature of Affiant

Subscribed and sworn to before me this _____ day of _____, 19___.

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

Tax Statements for the real property described in this instrument should be sent to:

AR02255T

4 MCAR S 1.5007 Residential mortgage between individuals. The recommended form for a residential mortgage between individuals is contained in Exhibit 4 MCAR S 1.5007-1.

Exhibit 4 MCAR S 1.5007-1

RESIDENTIAL MORTGAGE Form No. 41½—M
Pursuant to Minn. Stat. Sec. 47.20 (1981) Individual to Individual
Miller-Davis Co., Minneapolis
Minnesota Uniform Conveyancing Blanks (1981)

(reserved for mortgage registry tax payment data)

(reserved for recording data)

MORTGAGE REGISTRY TAX DUE HEREON:
$_____

THIS INDENTURE, Made this _____ day of _____, 19___,

between _____

_____ (Marital Status), Mortgagor (whether one or more),

and _____

_____, Mortgagee (whether one or more),

WITNESSETH, That the Mortgagor, in consideration of the sum of _____
_____ DOLLARS,
to the Mortgagor in hand paid by the Mortgagee, the receipt whereof is hereby acknowledged, does hereby convey unto the Mortgagee, Forever, all of the land located in the County of _____
_____, and State of Minnesota, described as follows:

together with all hereditaments and appurtenances belonging thereto (the Property).

TO HAVE AND TO HOLD THE SAME, to the Mortgagee forever. The Mortgagor covenants with Mortgagee as follows: That Mortgagor is lawfully seized of the Property and has good right to convey the same; that the Property is free from all encumbrances, except as follows: _____; that the Mortgagee shall quietly enjoy and possess the same; and that the Mortgagor will Warrant and Defend the title to the same against all lawful claims not hereinbefore specifically excepted.

PROVIDED, NEVERTHELESS, That if the Mortgagor shall pay to the Mortgagee the sum of _____
_____ DOLLARS,
according to the terms of a promissory note of even date herewith (the Note), the final payment being due and payable on _____, with interest at the rate of _____ percent per annum, and shall repay to the Mortgagee, at the times and with interest as specified, all sums advanced in protecting the lien of this Mortgage, in payment of taxes on the Property, insurance premiums covering buildings thereon, principal or interest on any prior liens, expenses and attorney's fees herein provided for and sums advanced for any other purpose authorized herein, and shall keep and perform all the covenants and agreements herein contained, then this Mortgage shall be null and void, and shall be released at the Mortgagor's expense.

AND THE MORTGAGOR covenants with the Mortgagee as follows:

1. to pay the principal sum of money and interest as specified in the Note;
2. to pay all taxes and assessments now due or that may hereafter become liens against the Property before penalty attaches thereto;
3. to keep all buildings, improvements and fixtures now or later located on or a part of the Property insured against loss by fire, extended coverage perils, vandalism, malicious mischief and, if applicable, steam boiler explosion, for at least the amount of _____ at all times while any amount remains unpaid under this Mortgage. If any of the buildings, improvements or fixtures are located in a federally designated flood prone area, and if flood insurance is available for that area, Mortgagor shall procure and maintain flood insurance in amounts reasonably satisfactory to the Mortgagee. Each insurance policy shall contain a loss

payable clause in favor of the Mortgagee affording all rights and privileges customarily provided under the so-called standard mortgage clause. In the event of damage to the Property by fire or other casualty, the Mortgagor shall promptly give notice of such damage to the Mortgagee and the insurance company. The insurance shall be issued by an insurance company or companies licensed to do business in the State of Minnesota and acceptable to the Mortgagee. The insurance policies shall provide for not less than ten days written notice to the Mortgagee before cancellation, non-renewal, termination, or change in coverage, and the Mortgagor shall deliver to the Mortgagee a duplicate original or certificate of such insurance policies.

4. to pay, when due, both principal and interest of all prior liens or encumbrances, if any, and to keep the Property free and clear of all other prior liens or encumbrances;
5. to commit or permit no waste on the Property and to keep it in good repair;
6. to complete forthwith any improvements which may hereafter be under course of construction on the Property, and;
7. to pay any other expenses and attorney's fees incurred by the Mortgagee by reason of litigation with any third party for the protection of the lien of this Mortgage.

In case of failure to pay said taxes and assessments, prior liens or encumbrances, expenses and attorney's fees as above specified, or to insure said buildings, improvements, and fixtures and deliver the policies as aforesaid, the Mortgagee may pay such taxes, assessments, prior liens, expenses and attorney's fees and interest thereon, or obtain such insurance, and the sums so paid shall bear interest from the date of such payment at the same rate set forth in the Note, and shall be impressed as an additional lien upon the Property and be immediately due and payable from the Mortgagor to the Mortgagee and this Mortgage shall from date thereof secure the repayment of such advances with interest.

In case of default in any of the foregoing covenants, the Mortgagor confers upon the Mortgagee the option of declaring the unpaid balance of the Note and the interest accrued thereon, together with all sums advanced hereunder, immediately due and payable without notice, and hereby authorizes and empowers the Mortgagee to foreclose this Mortgage by judicial proceedings or to sell the Property at public auction and convey the same to the purchaser in fee simple in accordance with the statute, and out of the moneys arising from such sale to retain all sums secured hereby, with interest and all legal costs and charges of such foreclosure and the maximum attorney's fee permitted by law, which costs, charges and fees the Mortgagor herein agrees to pay.

The Mortgagor and the Mortgagee further covenant and agree as follows:

1. Mortgagor shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.
2. Upon default of any covenant or agreement by Mortgagor under the terms of the Note or this Mortgage, Mortgagee prior to foreclosure shall mail notice to Mortgagor as provided herein specifying: (a) the nature of the default by the Mortgagor; (b) the action required to cure such default, (c) a date, not less than thirty (30) days from the date the notice is mailed to Mortgagor by which such default must be cured; and (d) that failure to cure such default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property. The notice shall further inform Mortgagor of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of the Mortgagor to acceleration and sale.
3. In addition to any notice required under applicable law to be given in another manner, (a) any notice to the Mortgagor provided for in this Mortgage shall be given by mailing such notice by certified mail addressed to the Mortgagor at the Property address or at such other address as the Mortgagor may designate by notice in writing to the Mortgagee as provided herein, and (b) any notice to the Mortgagee shall be given by certified mail, return receipt requested, to Mortgagee at the following address: _____

_____

or to such other address as Mortgagee may designate by notice in writing to the Mortgagor as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or Mortgagee when given in the manner designated herein.

The terms of this Mortgage shall run with the Property and bind the parties hereto and their successors in interest.

IN TESTIMONY WHEREOF, the Mortgagor has hereunto set its hand the day and year first above written.

MORTGAGOR

_____

_____

_____

_____

State of Minnesota }
County of _____ } ss.

The foregoing instrument was acknowledged before me this ____ day of _____, 19____
by _____

_____.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

FAILURE TO RECORD OR FILE THIS MORTGAGE
MAY GIVE OTHER PARTIES PRIORITY OVER THIS MORTGAGE.

4 MCAR S 1.5008 Residential mortgage from individual to a corporation or partnership. The recommended form for a residential mortgage from an individual as mortgagor to a corporation or partnership as mortgagee is contained in Exhibit 4 MCAR S 1.5008-1.

Exhibit 4 MCAR S 1.5008-1

RESIDENTIAL MORTGAGE
Pursuant to Minn. Stat. Sec. 47.20 (1981) Individual to Corporation or Partnership Form No. 42½—M Miller-Davis Co., Minneapolis Minnesota Uniform Conveyancing Blanks (1981)

(reserved for mortgage registry tax payment data)

(reserved for recording data)

MORTGAGE REGISTRY TAX DUE HEREON:
$_____

THIS INDENTURE, Made this _____ day of _____, 19___,

between _____

_____ (Marital Status), Mortgagor (whether one or more),

and _____

a _____ under the laws of _____, Mortgagee,

WITNESSETH, That the Mortgagor, in consideration of the sum of _____ DOLLARS, to the Mortgagor in hand paid by the Mortgagee, the receipt whereof is hereby acknowledged, does hereby convey unto the Mortgagee, Forever, all of the land located in the County of _____, and State of Minnesota, described as follows:

together with all hereditaments and appurtenances belonging thereto (the Property).

TO HAVE AND TO HOLD THE SAME, to the Mortgagee forever. The Mortgagor covenants with Mortgagee as follows: That Mortgagor is lawfully seized of the Property and has good right to convey the same; that the Property is free from all encumbrances, except as follows: _____; that the Mortgagee shall quietly enjoy and possess the same; and that the Mortgagor will Warrant and Defend the title to the same against all lawful claims not hereinbefore specifically excepted.

PROVIDED, NEVERTHELESS, That if the Mortgagor shall pay to the Mortgagee the sum of _____ DOLLARS, according to the terms of a promissory note of even date herewith (the Note), the final payment being due and payable on _____ with interest at the rate of _____ percent per annum, and shall repay to the Mortgagee, at the times and with interest as specified, all sums advanced in protecting the lien of this Mortgage, in payment of taxes on the Property, insurance premiums covering buildings thereon, principal or interest on any prior liens, expenses and attorney's fees herein provided for and sums advanced for any other purpose authorized herein, and shall keep and perform all the covenants and agreements herein contained, then this Mortgage shall be null and void, and shall be released at the Mortgagor's expense.

AND THE MORTGAGOR covenants with the Mortgagee as follows:

1. to pay the principal sum of money and interest as specified in the Note;
2. to pay all taxes and assessments now due or that may hereafter become liens against the Property before penalty attaches thereto;
3. to keep all buildings, improvements and fixtures now or later located on or a part of the Property insured against loss by fire, extended coverage perils, vandalism, malicious mischief and, if applicable, steam boiler explosion, for at least the amount of _____ at all times while any amount remains unpaid under this Mortgage. If any of the buildings, improvements or fixtures are located in a federally designated flood prone area, and if flood insurance is available for that area, Mortgagor shall procure and maintain flood insurance in amounts reasonably satisfactory to the Mortgagee. Each insurance policy shall contain a loss

payable clause in favor of the Mortgagee affording all rights and privileges customarily provided under the so-called standard mortgage clause. In the event of damage to the Property by fire or other casualty, the Mortgagor shall promptly give notice of such damage to the Mortgagee and the insurance company. The insurance shall be issued by an insurance company or companies licensed to do business in the State of Minnesota and acceptable to the Mortgagee. The insurance policies shall provide for not less than ten days written notice to the Mortgagee before cancellation, non-renewal, termination, or change in coverage, and the Mortgagor shall deliver to the Mortgagee a duplicate original or certificate of such insurance policies.

4. to pay, when due, both principal and interest of all prior liens or encumbrances, if any, and to keep the Property free and clear of all *other prior liens or* encumbrances;
5. to commit or permit no waste on the Property and to keep it in good repair;
6. to complete forthwith any improvements which may hereafter be under course of construction on the Property, and;
7. to pay any other expenses and attorney's fees incurred by the Mortgagee by reason of litigation with any third party for the *protection of the lien of this Mortgage.*

In case of failure to pay said taxes and assessments, prior liens or encumbrances, expenses and attorney's fees as above specified, or to insure said buildings, improvements, and fixtures and deliver the policies as aforesaid, the Mortgagee may pay such taxes, assessments, prior liens, expenses and attorney's fees and interest thereon, or obtain such insurance, and the sums so paid shall bear interest from the date of such payment at the same rate set forth in the Note, and shall be impressed as an additional lien upon the Property and be immediately due and payable from the Mortgagor to the Mortgagee and this Mortgage shall from date thereof secure the repayment of such advances with interest.

In case of default in any of the foregoing covenants, the Mortgagor confers upon the Mortgagee the option of declaring the unpaid balance of the Note and the interest accrued thereon, together with all sums advanced hereunder, immediately due and payable without notice, and hereby authorizes and empowers the Mortgagee to foreclose this Mortgage by judicial proceedings or to sell the Property at public auction and convey the same to the purchaser in fee simple in accordance with the statute, and out of the moneys arising from such sale to retain all sums secured hereby, with interest and all legal costs and charges of such foreclosure and the maximum attorney's fee permitted by law, which costs, charges and fees the Mortgagor herein agrees to pay.

The Mortgagor and the Mortgagee further covenant and agree as follows:

1. Mortgagor shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.
2. *Upon default of any covenant or agreement by Mortgagor under the terms of the Note or this Mortgage, Mortgagee prior to* foreclosure shall mail notice to Mortgagor as provided herein specifying: (a) the nature of the default by the Mortgagor; (b) the action required to cure such default; (c) a date, not less than thirty (30) days from the date the notice is mailed to Mortgagor by which such default must be cured; and (d) that failure to cure such default on or before the date specified in the notice may result *in acceleration of the sums secured by this Mortgage and sale of the Property. The notice shall further inform Mortgagor of the* right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of the Mortgagor to acceleration and sale.
3. In addition to any notice required under applicable law to be given in another manner, (a) any notice to the Mortgagor provided *for in this Mortgage shall be given by mailing such notice by certified mail addressed to the Mortgagor at the Property address or* at such other address as the Mortgagor may designate by notice in writing to the Mortgagee as provided herein, and (b) any notice to the Mortgagee shall be given by certified mail, return receipt requested, to Mortgagee at the following address: _____

_____

or to such other address as Mortgagee may designate by notice in writing to the Mortgagor as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or Mortgagee when given in the manner designated herein.

The terms of this Mortgage shall run with the Property and bind the parties hereto and their successors in interest.

IN TESTIMONY WHEREOF, the Mortgagor has hereunto set its hand the day and year first above written.

MORTGAGOR

_____

_____

_____

_____

State of Minnesota }
} ss.
County of _____ }

The foregoing instrument was acknowledged before me this ____ *day of* _____, 19____
by _____

_____

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

FAILURE TO RECORD OR FILE THIS MORTGAGE
MAY GIVE OTHER PARTIES PRIORITY OVER THIS MORTGAGE.

CHAPTER ONE: COMC 1-10

SCOPE, PURPOSE AND DEFINITIONS

COMC 1 Scope and Purpose: The procedures herein contain rules and regulations governing an application and hearing seeking approval of a certificate authorizing the formation of a new bank, pursuant to Minn. Stat. Sec. 45; the formation of a new Savings, Building and Loan Association, pursuant to Minn. Stat. Sec. 51; or a new Industrial Loan and Thrift Company, pursuant to Minn. Stat. Sec. 53. The purpose of these procedures is to help bring to the attention of the Minnesota Commerce Commission (hereinafter called "Commission") facts deemed relevant to the rendering of a decision with respect to a particular application.

COMC 2 Definitions: All terms which are defined in Minnesota Statutes, Sections 45, 51 and 53, shall be construed to possess the same meaning when applied to these rules. Unless the language or context clearly indicates that a different meaning is intended, the following definitions are applicable to the Commission's Rules and Regulations as contained herein:

(a) "Financial institution" means a savings bank, bank of discount or deposit, trust company, savings, building and loan association or industrial loan and thrift company.

(b) "Application" means a request to transfer an existing financial institution, pursuant to the laws of Minnesota, or a request for a certificate of authorization to transact business as a proposed bank or industrial loan and thrift company, or a petition for a certificate of incorporation to transact business as a savings and loan association.

(c) "Executive Secretary" means the Executive Secretary of the Minnesota Commerce Commission.

(d) "Applicant" means any individual or group of individuals applying, pursuant to Minnesota Statutes, for a certificate to transact business as a financial institution.

(e) "Objector" means any potentially affected citizen, existing financial institution, copartnership, association, or corporation having given timely notice of intent to appear at a hearing in opposition to the granting of an application.

(f) "Party or parties" means any applicant or objector who appears and participates at a pre-hearing conference or hearing.

(g) "Original applicant" means an existing or proposed financial institution first filing an application to transact business at a particular location.

(h) "Competing applicant" means any existing or proposed financial institution filing an application to transact business in substantially the same general market area as the original applicant.

(i) "Comparative hearings" mean separate hearing involving the original and competing applicants' application where findings of each hearing will be considered by the Commission on a comparative basis before orders as to any of the applicants are issued.

(j) "Hearing date" means the date on which evidence is first received either in favor of or in opposition to the application.

(k) "Hearings calendar" means the official hearings docket of the Commission. Completed applications shall be entered on the hearings calendar by the Executive Secretary in the order in which they have been filed.

(l) "Filing" means actual receipt of any document in the office of the Executive Secretary at St. Paul, Minnesota.

COMC 3 - 10 *Reserved for future use.*

CHAPTER TWO: COMC 11-30

PRE-HEARING PROCEDURE

COMC 11 Commencement of Proceedings: A hearing on an application for a certificate authorizing an applicant to transact business as a financial institution is instituted by completing and filing the appropriate application forms with the Commission pursuant to the following procedure:

(a) The application shall be on forms approved by the Commissioner of Banks, and adopted by the Commission.

(b) The initial application shall be delivered or mailed to the offices of the Banking Division at St. Paul, Minnesota.

(c) Failure to provide any or all information requested on the application may delay the filing of the application with the Commission.

(d) Upon approval of the applicant's materials, as to disclosure and form, the Banking Division shall forward the application to the Executive Secretary for filing.

(e) The Executive Secretary shall file the application by entering into the official minutes of the Commission the date the application was received from the Banking Division.

COMC 12 Notice of Hearing and Publication: The Executive Secretary shall enter the application on the Hearings Calendar and set a date within the time specified by law for hearing on the application.

(a) Notice of the date, time and place of the hearing and the date the application was filed shall be communicated in writing to the applicant or his representative by the Executive Secretary.

(b) The Executive Secretary's notice of hearing shall be published, at the expense of the applicant, in accordance with the applicable statutory requirements.

(c) The printer's affidavit of publication must be filed with the Executive Secretary not less than seven days prior to the date the hearing is opened. Failure to provide the affidavit of publication within the time specified may result in summary denial of the application.

(d) All information which is required by the Commissioner of Banks, after an applicant has received notification of the hearing date, shall be forwarded within such reasonable time as is specified by the Commissioner of Banks. Failure to provide requested information within the time specified may result in summary denial of the application.

(e) If there is entered on the hearings calendar an earlier application which has not been heard in its entirety, a hearing on a subsequently filed application may be opened pursuant to these rules within the time specified by law and immediately adjourned. The adjourned hearing will be reconvened, unless the Commission determines otherwise, in the order in which it was entered on the hearings calendar. The Executive Secretary shall, by registered mail, give each party to the subsequent application, sixty days written notice of the reconvened hearing date.

COMC 13 Notification by Objectors: Anyone intending to oppose the application shall, not less than ten days prior to the hearing date, notify the Executive Secretary in writing of his intent to appear in opposition to the application. The objector shall also simultaneously mail a copy of his written notice to the office of the applicant or his representative whose address shall be included in the published notice of hearing.

(a) All or any portion of the application, including the applicants' financial statements, shall be open to inspection by the parties.

(b) All or any portion of the application, except the financial statements of the applicants, shall be open to inspection by members of the public.

(c) The Executive Secretary shall furnish a copy of the application to any party upon request and payment in advance of the appropriate charges.

(d) For good cause shown, any potentially affected citizen, existing financial institution, copartnership, association, or corporation that has failed to give timely notice, as prescribed herein, may be permitted by the Commission to appear at the hearing in opposition to the application.

COMC 14 Motions: Motions may be presented requesting comparative hearings, the addition of necessary parties, dismissal of improper parties, the dismissal of the proceedings for want of jurisdiction, the quashing of a subpoena, the postponement of an effective date of an order, the extension of time for compliance with an order, or such other relief or order as may be appropriate.

(a) Motions, unless made during a hearing, shall be in writing, shall set forth the relief or order sought, shall be served upon all parties of record and shall be filed together with an affidavit of mailing with the Executive Secreatry, who shall bring it before the Commission at the earliest convenient time. The requirement of writing is fulfilled if the motion is stated in a written notice of the motion. Motions based on matters which do not appear of record shall be supported by affidavit.

(b) A hearing on a written motion shall be within the sole discretion of the Commission. Upon determing that a written motion will be heard, the Commission shall order the Executive Secretary to notify the parties in writing of the time and place it will hear the motion. An opportunity shall be afforded each party, at the time the motion is heard, to file exceptions and present arguments in favor of or in opposition to all relevant matters raised by reason of said motion.

COMC 15 Motion for a Comparative Hearing: Any competing applicant that alleges its application is mutually exclusive with an original applicant's application may file a motion for a comparative hearing not less than ten days prior to the date the hearing is first opened on the original applicant's application.

(a) A motion for a comparative hearing shall be heard pursuant to the following procedure:

(1) Evidence concerning whether there is sufficient "reasonable public demand" and "probable volume of business" to support an affirmative finding on these two issues as to the original and competing applicant's application will be heard on the day the original application is set for hearing. Upon completion of testimony on these two issues, the Commission will hear evidence on the remaining statutory criteria with respect to the original applicant only.

(2) At the conclusion of the original applicant's hearing, the Commission shall determine whether the general market area to be served by the original and competing applicants is mutually exclusive so that if an order were issued granting a charter to the original applicant, it would render meaningless a hearing on the competing applicant's application.

(b) Upon determing that the applications are not mutually exclusive, the Commission shall deny the competing applicant's motion, and issue its order concerning the original applicant within the time prescribed by law.

(c) Upon determing the applications mutually exclusive, the Commission shall:

(1) Grant the competing applicant's motion and order a comparative hearing on those issues that remain to be heard concerning the competing applicant's application; or

(2) Deny the competing applicant's motion, and original applicant's application if it finds that the general market area to be served by them does not possess sufficient "public demand" or "volume of business" to warrant the creation of one or more new financial institutions.

(d) A motion requesting a comparative hearing with an original application, filed less than 10 days prior to the date the hearing is first opened on the original applicant's application shall be summarily denied without prejudice.

(e) Notice of the Commission's order regarding the competing applicant's motion shall be served in accordance with these rules.

COMC 16 Discovery: Identity of witnesses, production of documentary evidence and copies of working papers shall be exchanged by the parties.

(a) The name, address and business or occupation of any witness who may be called to testify in support of or in opposition to the application shall be made available to all parties no later than seven days prior to the hearing date. Testimony from any witness not identified in accordance with this rule shall not be received in evidence in absence of a clear showing that the offering party had good cause for his failure to supply the identity of the witness within the time prescribed by this rule.

(b) Copies of all documentary evidence such as, but not being limited to, economic feasibility studies or economic surveys, which will be offered during the hearing in support of or in opposition to the application shall be made available, upon written request, to all parties no later than seven days prior to the hearing date in order to permit study and preparation of cross-examination and rebuttal evidence. Failure to supply requested data in accordance with this rule shall result in forfeiture of the right to present and offer the material in evidence at the hearing, unless the offering party can clearly show that he had good cause for his failure to make available copies of the evidence within the time prescribed by this rule.

(c) Copies of any working papers containing figures or other information relied upon when preparing estimated or projected data called for in the application, shall be made available upon written request, no later than seven days prior to the hearing date. Failure to provide working papers shall go to the weight given the estimated or projected data called for in the application and not to its admissibility.

COMC 17 Subpoenas: Requests for subpoenas shall be made in writing, addressed to the office of the Executive Secretary, and shall contain a brief statement as to the relevance and reasonable scope of the testimony or evidence sought.

(a) Issuance. Request for subpeona may be made by the applicant or any objector or his duly authorized representative, and shall contain the name and address of the witness or witnesses whose presence is sought.

(b) Form. Every subpoena shall state the title of the proceeding, and shall command the individual to whom it is directed to attend and give testimony or produce designated evidence at a specified time and place.

(c) Service. Unless the service of a subpoena is acknowledged on its face by the witness, it shall be served by a person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein may be made by delivering a copy of the subpoena to such person and by tendering to him the fees for one day's attendance and the mileage allowed by law, or by leaving such copy with a person of suitable age and discretion at witness's usual place of abode.

(d) Fees. Cost of service and legal expenses of any witness summoned before the Commission shall be paid by the party at whose request the witness appears.

(e) Proof of Service. The person serving the subpoena shall make proof of service by filing the subpoena and the required return affidavit, or acknowledgment of service with the Executive Secretary.

(f) Quashing. Upon motion made promptly, and in any event, at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed and upon notice to the party to whom the subpoena was issued, the Commission or its duly delegated authority may:

(1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or,

(2) Condition denial of the motion upon just and reasonable conditions.

(g) Enforcement. Upon application and for good cause shown, the Commission will seek judicial enforcement of all valid subpoenas issued by its order.

COMC 18 Pre-hearing Conference: A pre-hearing conference may be ordered by the Commission on its own motion or upon request of one of the parties.

(a) The Executive Secretary shall give all parties written notice of the time and place of the pre-hearing conference.

(b) At the pre-hearing conference, the parties should be prepared to consider:

(1) The simplification of the issues.

(2) The necessity of amendments to the application.

(3) The possibility of obtaining stipulations as to admissions of facts or documents which will avoid unnecessary proof.

(4) The limitation of the number of expert witnesses.

(5) Such other matters as may aid in the disposition of the proceeding.

(c) A pre-hearing conference may, if requested in advance by any party, be recorded. If no verbatim transcript is taken, the person conducting the pre-hearing conference shall prepare a summarized record reciting the results of the conference. Such record shall include matters considered and ruled upon at the conference together with appropriate stipulations by the parties, if any. The record shall be received into evidence during open hearing.

COMC 19 Continuances: Where good cause for continuance exists, a motion for continuance must be filed immediately.

(a) A motion for continuance made within seven days of the hearing will be denied, unless good cause exists and the reason for the request could not, with the exercise of due diligence, have been earlier ascertained.

(b) A motion for continuance filed not less than seven days prior to the hearing date will be granted upon showing of good cause.

(c) The following, without being limited thereto, are not considered "good cause":

(1) Where law firm representing one of the parties consists of more than one member, unavailability of counsel responsible for the interest of one of the parties because of engagement in another court or otherwise.

(2) Unavailability of a witness if his deposition could have been taken between the time the notice of hearing was published and the actual date of the hearing

(3) Agreement of the parties without consent of Commission.

(d) During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the person conducting the hearing may, at his discretion, continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute notice of such continued hearing.

COMC 20 Withdrawal of Application for Certification: An applicant intending to withdraw an application shall do so in writing by serving written notice upon all parties and the Executive Secretary.

(a) Notice of withdrawal received by the Executive Secretary, not less than seven days prior to the date of hearing, shall be without prejudice, except that the investigation fee shall be forfeited if the Banking Division had commenced its investigation prior to receipt of said notice.

(b) An application withdrawn within seven days of the hearing date shall be with prejudice and shall result in forfeiture of the filing and investigation fee.

COMC 21 Filing Procedure: The original and four copies of written motions, briefs, petitions, and other papers called for by these rules, except the initial application, shall be delivered or mailed to the office of the Executive Secretary at St. Paul, Minnesota.

COMC 22 - 30 Reserved for future use

CHAPTER THREE: COMC 31-50

CONDUCT OF HEARINGS

COMC 31 Presiding Authority: All hearings shall be conducted either by the Commission or a duly appointed hearing examiner and shall be open to the public. The hearing examiner shall have the authority to conduct pre-hearing conferences, administer oaths or affirmations, examine witnesses, rule upon the admissibility of evidence and amendments to applications, and make proposed findings of fact or proposals for decision, and such other action as authorized by the Commission.

COMC 32 Order of Presentation of Evidence during the hearing shall be as follows:

(a) All parties shall be required to enter their appearance on the record.

(b) Unless otherwise ordered by the Commission, the applicant shall present his case-in-chief by calling witnesses and submitting other evidence. Parties appearing in opposition to the application, Commission members, and hearing examiner, in that order, shall have an opportunity to cross-examine each witness called by the applicants.

(c) Any party in opposition to the granting of the application may thereupon present witnesses and other evidence. The applicant, Commission members and hearing examiner, in that order, shall have an opportunity to cross-examine each witness called by the parties appearing in opposition to the application.

(d) The applicant shall then be permitted to offer rebuttal evidence subject to these rules.

(e) The Commission may then call for the production of further evidence upon any issue. It may also produce independent evidence which is material to the issues or necessary to complete the record.

COMC 33 Stipultations: Parties may, by stipulation, agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding; provided that the Commission or hearing examiner may require proof of any fact by evidence where matters of public interest are involved.

COMC 34 Witnesses: Any party may be witness or present witnesses on his behalf at a hearing. All witnesses must be sworn and identify the party for whom they are appearing.

COMC 35 Rules of Evidence: The Commission or hearing examiner may admit any relevant evidence, including heresay evidence, if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions tried before a jury. The rules of privilege shall be effective to the same extent that they are recognized in civil actions. The Commission or hearing examiner may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record.

(a) The applicant must prove facts at issue by a fair preponderance of the evidence. The burden of proof shall at all times be on the applicant to show that the application meets all statutory and regulatory requirements.

(b) Evidence considered by the Commission to possess probative value may include but not be limited to:

(1) Subject to these rules, special economic or public opinion surveys or statistical data, whether made primarily for the applicant or objector.

(2) Subject to these rules, economic or statistical data produced by local industries, governmental subdivisions or agencies, or educational institutions for their own purpose. (Such data shall not be subject to challenge because the evidence is not presented orally.)

(c) Documentary evidence may be recieved in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(d) Where expert or opinion testimony is contemplated, all interested parties shall endeavor to select one or more witnesses to speak for all parties or limit the number for each party.

(e) Official notice may be taken of any generally accepted technical or scientific matter within the Commission's special field of competency, and also of any fact which may be judicially noticed by the courts. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any memoranda or data, and they shall be afforded an opportunity to contest the material so noticed.

(f) All evidence, including records, documents or other factual information in possession of the Banking Division (except tax returns, tax reports, examination reports on existing banks, or personal financial statements of the applicants) may be offered in evidence by said agency, and, subject to these rules, made a part of the record. Only such matters (except tax returns, tax reports, examination reports on existing banks, or personal financial statements of the applicants) offered in evidence by the Banking Division and made a part of the entire record of the proceedings may be considered by the Commission in arriving at its final decision.

COMC 36 Depositions: During the pendency of any proceedings, the Commission or its hearing examiner, either upon its or his own motion or upon application in writing by any party, may cause the deposition, for use as evidence in the proceeding, of any witness residing within or without the State to be taken in the manner provided by law for depositions in civil actions in the courts of this state, and to that end may compel the attendance of witnesses and the production of books, papers, accounts and documents. Except, under special circumstances and for good cause shown, a deposition may be taken only upon ten days' prior written notice to all parties.

COMC 37 Record: The Commission will designate an official reporter to make and transcribe a stenographic or recorded record of hearings in all proceedings, and will provide for such copies of the transcript as it may require for its own purpose. No copies of the transcript will be furnished to parties by the Commission, but copies may be obtained from the Executive Secretary upon payment of appropriate charges as may be determined by the Commission from time to time. The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision.

COMC 38 Proposal for Decision: The hearing examiner, after hearing a motion, may, in the interest of expediting the hearing, make an initial decision with respect to the motion. When an initial decision is rendered, the hearing examiner shall, when he is requested, or may, at his discretion when no request is made, announce for the record at the close of the hearing that he will prepare a proposal for decision which he will recommend the Commission adopt.

(a) The proposal for decision shall contain proposed Findings of Fact including a statement of reasons therefore, Conclusions of Law and Order.

(b) The Executive Secretary shall serve, by registered mail, a copy of the proposal for decision upon each party or his attorney together with written notice of the date, time and place the Commission will consider the proposal preparatory to its final decision.

(c) The Commission's consideration of the proposal for decision shall take place not less than 20 days after written notice has been served on the parties. Any party may file exceptions or present arguments to the Commission at that time.

COMC 39 - 50 Reserved for future use.

CHAPTER FOUR: COMC 51-60

POST HEARING PROCEDURE

COMC 51 Proposed Findings: If a hearing examiner conducts the hearing, he shall make proposed Findings of Fact and submit them to the Commission.

(a) Upon the close of the hearing, any of the parties may request for the record or on its motion the Commission may require each party to file proposed Findings of Fact, Conclusions of Law and Order.

(b) The original and four copies of the proposed Findings shall be filed by each of the parties with the Executive Secretary within ten days from the close of the hearing or within ten days from receipt of the transcript when a copy is requested.

COMC 52 Decision and Order: Every decision and order rendered by the Commission shall be in writing or stated in the record and shall be accompanied by a statement of the reasons therefore. A statement of reasons shall consist of a concise statement of the conclusions upon each contested issue of fact necessary to the decision.

(a) Every decision and order shall be signed by the Commission Chairman, and shall bear the date of official publication.

(b) The original of every decision and order shall be maintained by the Executive Secretary, and reference thereof shall be entered into the official minutes of the Commission.

(c) Parties to the hearing shall be notified of the decision and order by mail.

COMC 53 Ex Parte Consultation: It is improper that there be any effort, direct or indirect, by any person to sway the judgement of any member of the Commission or hearing examiner by attempting to bring pressure or influence to bear upon any member of the Commission or hearing examiner.

(a) The hearing examiner shall take no part in any preliminary investigation or inquiry into the facts or issues involved in the hearing except as provided by these rules. He shall not communicate directly or indirectly in connection with any issue of fact or law with any person or party, except upon notice and opportunity for all parties to participate.

(b) The Commission may disqualify and deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person or hearing examiner who, after hearing by the Commission on reasonable notice, is found to have engaged in unethical or improper professional conduct concerning matters over which the Commission has jurisdiction.

COMC 54 - 60 Reserved for future use.

CHAPTER FIVE: COMC 61-70

NOTICE, COMPUTATION OF TIME, MODIFICATION, CONSTRUCTION AND SEPARABILITY OF RULES.

COMC 61 Notice by Commission: Unless otherwise provided by law or these rules, notice may be given by the Commission by first class or certified mail, addressed to any party or his attorney of record, at his last known post office address.

COMC 62 Computation of Time: In computing any period of time prescribed by these rules, by order of the Commission or by any applicable statute, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

COMC 63 Modification of Rules: Except as otherwise provided by law, and for good cause shown, the Commission reserves the right to waive complaince with any of these rules whenever, in its judgement, no party will be injured thereby.

COMC 64 Construction of Rules: These rules shall not be construed to abrogate, modify or limit any rights, privileges or immunities granted or protected by the constitution or laws of the United States or the constitution or laws of the State of Minnesota.

COMC 65 Separability of Rules: If any provision of these Rules or the application thereof to any party or circumstance is held invalid, the remainder of the Rules and the application of such provisions to other parties or circumstances shall not be affected thereby.

COMC 66 - 70 Reserved for future use

COMMERCE COMMISSION

Minnesota Department of Commerce

COMC 101 - 119

RULES OF CONTESTED CASE PROCEDURES

COMC 101 Scope and Purpose. The procedures contained herein, COMC 101 to COMC 119, govern all contested cases before any division, section or board within the Department of Commerce, except for those cases governed by Minn. Reg. COMC 1-70.

COMC 102 Introduction, Definitions.

(a) **Introduction.** No person before this Department shall have his rights, privileges, or duties determined without regard for fundamental fairness. To that end, these rules are intended to assure that all parties to contested cases before this Department are provided a speedy and just hearing. Such hearing shall include:

(1) Adequate notice to all interested persons;

(2) The opportunity to consult with the Department informally to attempt to resolve conflicts on issues;

(3) Notice at each stage of the proceedings sufficient to provide the opportunity to prepare therefor;

(4) An objective decision supported by substantial evidence from the record.

(b) **Definitions.**

(1) **Agency.** Agency means any division, section or board within the Department of Commerce, or the head thereof.

(2) **Contested Case.** Contested case means a proceeding before the Agency in which the legal rights, duties or privileges of specific parties are required by law or constitutional right to be determined after an Agency hearing.

(3) **Party.** Party means any person whose legal rights, duties or privileges may be determined in a contested case. The term "party" shall include the Agency except when the Agency participates in the contested case in a neutral or quasi-judicial capacity only.

(4) **Person.** Person means any individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, or any government or governmental subdivision, unit or agency, other than a court of law.

(5) **Hearing Officer.** Hearing officer means the person or persons appointed by the Agency pursuant to Minn. Reg. COMC 103 hereof, to hear the contested case.

(6) **Service; Serve.** Service or serve means service by registered or certified United States mail, postage prepaid and addressed to the party at his last known address, unless some other manner of service is required by law. An affidavit of mailing shall be made by the person making such service. Service by mail is complete upon the placing of the item to be served in the mail.

(7) **Commencement.** Commencement means service of an order for hearing upon any party.

COMC 103 Hearing Officers.

(a) **Appointment.** The Agency may appoint a hearing officer to hear a contested case. The appointment, if made, shall be at the commencement of the case.

(b) **Qualifications.**

(1) **Cases to Which the Agency is a Party.** In cases to which the Agency is a party, the hearing officer shall not at the time of appointment be an employee of nor on retainer to the Agency, but he may be employed as a hearing examiner by the Minnesota Department of Commerce. All appointments hereunder shall be consistent with the purpose of this Rule, which is to secure as objective and impartial a decision-maker as is legally and financially possible.

(2) **Cases to Which the Agency is not a Party.** In cases to which the Agency is not a party, the Agency may appoint any person, including an employee of the Agency or a member or members thereof, as the hearing officer.

(c) **Authority of Hearing Officer.**

(1) **Cases to Which the Agency is a Party.** In cases to which the Agency is a party, the appointment of the hearing officer shall authorize the hearing officer to hear the case and propose findings of fact and conclusions of law.

(2) **Cases to Which the Agency is not a Party.** In cases to which the Agency is not a party, the appointment of the hearing officer shall grant the hearing officer such authority as the Agency deems necessary and appropriate to hear the case.

(d) **Function.** Consistent with the law and the terms of his appointment, the hearing officer shall hear the contested case, hear and rule on preliminary motions, administer oaths and examine witnesses, issue subpoenas, make preliminary, interlocutory, or other orders as he deems appropriate, grant or deny continuances and requests for discovery, propose to the Agency findings of fact upon the evidence presented and conclusions of law, and do things necessary or proper to the performance of the foregoing.

COMC 104 Initiating a Contested Case.

(a) **Initiation by Request.** Any person entitled by law to an Agency hearing upon request may initiate a contested case by filing a request therefor in a timely manner as required by law. A request shall contain:

(1) The name and address of the person;

(2) A statement of the nature of the determination sought and the reasons therefor;

(3) A reference to the Agency order giving rise to the request;

(4) The names and addresses of all persons known to the applicant who will be directly affected by such determination; and

(5) The signature of the applicant or his attorney.

(b) **Initiation by Agency Order.** Where authorized by law, the Agency may order a contested case commenced to determine the rights, duties and privileges of specific parties.

COMC 105 Commencement of Contested Case.

(a) Within the time provided by law or, in any event, within a reasonable time following the receipt of a request for hearing pursuant to COMC 104(a), the Agency shall issue an order setting a hearing. An order issued pursuant to COMC 104(a) or (b) shall be served upon all known parties and shall contain, inter alia, the following:

(1) The time and place of the hearing;

(2) The name and address of the hearing officer;

(3) The allegations or issues to be determined, together with a citation to relevant statutes or regulations;

(4) Notification of the right of the parties to be represented by legal counsel;

(5) A citation to these rules;

(6) A statement announcing the right of a party to request a prehearing conference by so notifying the hearing officer.

(7) A statement that failure to attend the hearing may result in the allegations of the order being taken as true.

(b) The order setting a hearing shall be served not less than twenty days prior to the hearing unless otherwise provided by law.

COMC 106 Right to Counsel. Any party may be represented by legal counsel throughout the proceedings in a contested case before the Agency.

COMC 107 Informal Disposition. Informal disposition may be made of any contested case or any issue therein by stipulation, agreed settlement, or consent order at any point in the proceedings.

COMC 108 Default. The Agency may dispose of a contested case adverse to a party which defaults. Upon default the allegations of the order for hearing may be taken as true.

COMC 109 Intervention.

(a) **Application.** Upon timely application any person shall be permitted to intervene in a contested case upon a showing that his legal rights, duties or privileges may be determined or affected in the contested case, unless in the discretion of the hearing officer such person's interest is adequately represented by one or more parties participating in the case.

(b) **Rights of Intervenor.** Upon granting an application to intervene, the applicant shall thereafter be a party to the contested case with all of the rights of a party.

COMC 110 Consolidation.

(a) **Authority.** Whenever, before hearing on any contested case, the Agency, either on its own motion or upon petition by any party, determines (a) that separate contested cases present substantially the same issues of facts or law; (b) that a holding in one case would affect the rights of parties in another case; and (c) that consolidation would not substantially prejudice any party, the Agency may order such cases consolidated for a single hearing on the merits. Notwithstanding the requirements of this Rule, the parties may stipulate and agree to such consolidation.

(b) **Notice.** Following an order for consolidation the Agency shall forthwith serve on all parties a notice of consolidation. Such notice shall contain:

(1) A description of the cases for consolidation;

(2) The reasons for consolidation;

(3) Cancellation of any prehearing conferences for the cases consolidated; and

(4) Notification of a consolidated prehearing conference if one has been requested.

(c) **Objection to Consolidation.**

(1) **Petition for Severance.** Any party may object to consolidation by filing with the Agency prior to the hearing in the case a petition for severance from consolidation, setting forth petitioner's name and address, the designation of his case prior to consolidation, and the reasons for his petition.

(2) **Determination.** If the Agency finds that consolidation would prejudice petitioner, it may order such severance or other relief as it deems necessary.

(d) In any contested case in which any agency is a party, all determinations and decisions regarding consolidation or severance shall be made by the hearing officer, subject to the same standards and criteria set forth above.

COMC 111 Disqualification. A hearing officer shall withdraw from participation in a contested case at any time if he deems himself disqualified for any reason. Upon the filing in good faith by a party of an affidavit of prejudice the hearing officer shall determine the matter as a part of the record, provided the affidavit shall be filed no later than five days prior to the date set for hearing.

COMC 112 Prehearing Conference.

(a) **Purpose.** The purpose of the prehearing conference is to simplify the issues to be determined, to consider amendment of the Agency's order if necessary, to obtain stipulations in regard to foundation for testimony or exhibits, to consider the proposed witnesses for each party, to consider such other matters as may be necessary or advisable, and, if possible, to reach a settlement without the necessity for further hearing.

(b) **Procedure.** Upon the request of any party or upon his own motion, the hearing officer may, in his discretion, hold a prehearing conference preparatory to each contested case hearing. The prehearing conference shall be an informal proceeding conducted fairly and expeditiously by the hearing officer. Agreements on the simplification of issues shall be put in the form of stipulations and entered on the record. Any final settlement shall be set forth in a settlement agreement or consent order and made a part of the record.

COMC 113 Subpoenas. Requests for subpoenas shall be made in writing to the hearing officer and shall contain a brief statement as to the relevance of the testimony or evidence sought.

(a) A subpoena shall be served in the manner provided by the Rules of Civil Procedure for the District Courts of the State of Minnesota unless otherwise provided by law.

(b) The cost of service, fees, and expenses of any witness subpoenaed shall be paid by the party at whose request the witness appears.

(c) The person serving the subpoena shall make proof of service by filing the subpoena with the hearing officer, together with his affidavit of service.

COMC 114 The Hearing.

(a) **Right to Hearing.** All parties shall have the right to a hearing before the Agency, at which hearing the parties may cross-examine witnesses, and present evidence, rebuttal testimony and argument with respect to the issues.

(b) **Witnesses.** Any party may be a witness or may present witnesses on his behalf at a hearing. All testimony at a hearing shall be under oath or affirmation.

(c) **Rules of Evidence.**

(1) **General Rules.** The hearing officer may admit all evidence which possesses probative value, including hearsay, if it is the type of evidence on which prudent persons are accustomed to rely in the conduct of their serious affairs. The hearing officer shall give effect to the rules of privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial or repetitious may be excluded.

(2) **Evidence must be Offered to be Considered.** All evidence to be considered in the case, including all records and documents (except tax returns and tax reports) in the possession of the Agency or a true and accurate photocopy thereof, shall be offered and made a part of the record in the case. No other factual information or evidence (except tax returns and tax reports) shall be considered in the determination of the case.

(3) **Documentary Evidence.** Documentary evidence in the form of copies or excerpts may be received or incorporated by reference in the discretion of the hearing officer or upon agreement of the parties.

(4) **Notice of Facts.** The hearing officer may take notice of judicially cognizable facts but shall do so on the record and with the opportunity for any party to rebut.

(5) **The Burden of Proof.** The party initiating the contested case must prove the facts at issue by a preponderance of the evidence.

(6) **Examination of Adverse Party.** A party may call an adverse party or his managing agent or employees or an officer, director, managing agent or employee of the State or any political subdivision thereof or of a public or private corporation or of a partnership or association or body politic which is an adverse party, and interrogate him by leading questions and contradict and impeach him on material matters in all respects as if he had been called by the adverse party. The adverse party may be examined by his counsel upon the subject matter of his examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by his testimony.

(d) **The Record.**

(1) **Agency Prepares Record.** The Agency shall prepare an official record in each contested case.

(2) **What the Record Shall Contain.** The record in a contested case shall contain:

(aa) All orders, pleadings, motions and interlocutory rulings;

(bb) Evidence received or considered;

(cc) Offers of proof, objections and rulings thereon;

(dd) Proposed findings of fact and conclusions of law;

(ee) All memoranda or data submitted to the hearing officer by any party in connection with the case.

(3) **Transcript.**

(aa) **Reporter or Mechanical Device.** A verbatim record of the hearing shall be taken by court reporter or recording equipment. A court reporter shall be used if demanded by any party. Unless the Agency agrees to bear the expense of the court reporter, such expense shall be paid by the demanding party.

(bb) **Transcript.** The verbatim record may be transcribed if requested by a party. If a transcription is requested, the Agency may require the requesting party to pay the reasonable cost of preparing the transcript.

(e) **Continuances.** A request for continuance shall be made in writing to the hearing officer.

(1) A request for continuance filed not less than three days prior to the hearing may be granted upon a showing of good cause. Due regard shall be given to the ability of the party requesting a continuance to effectively proceed without a continuance.

(2) A request for a continuance filed within three days of the hearing shall be denied unless good cause exists and the reason for the request could not have been earlier ascertained.

(3) During a hearing, if it appears in the interest of justice that further testimony should be received, the hearing officer, in his discretion, may continue the hearing to a future date and such oral notice on the record shall be sufficient.

(f) **Interlocutory Motions.** When a hearing officer has been appointed, there shall be no interlocutory motions to the Agency during the course of the hearing, but such motion shall be made to the hearing officer and considered by the Agency in its consideration of the record as a whole.

(g) **Hearing Procedure.**

(1) **Hearing Officer Conduct.** The hearing officer shall take no part in any preliminary investigation or inquiry into the facts or issues involved in the contested case except as provided in Minn. Reg. COMC 112. He shall not communicate, directly or indirectly, in connection with any issue of fact or law, with any person or party, including the Agency, except upon notice and opportunity for all parties to participate.

(2) **Sequence of Events.** The hearing shall be conducted in the following manner:

(aa) After opening the hearing, the hearing officer shall indicate the following procedural rules

(i) All parties may present evidence and argument with respect to the issues;

(ii) All witnesses shall be sworn and identify the party they represent, if any. They are subject to cross-examination by all parties;

(iii) The rules of evidence as set forth in Minn. Reg. COMC 114 (c)(1).

(bb) A representative of the Agency shall introduce the following exhibits on behalf of the Agency:

(i) All orders in the matter, supporting documents, if any, and affidavits of service;

(ii) Any stipulations, settlement agreements, or consent orders entered into by any of the parties prior to the hearing.

(cc) The party with the burden of proof may make an opening statement. All other parties may make such statements in a sequence determined by the hearing officer.

(dd) After any opening statements, the party with the burden of proof shall begin the presentation of evidence. He shall be followed by the other parties in a sequence determined by the hearing officer.

(ee) Cross-examination of witnesses shall be conducted in a sequence determined by the hearing officer.

(ff) When all parties and witnesses have been heard, opportunity shall be offered to present rebuttal evidence and final argument, in a sequence determined by the hearing officer. Such rebuttal and final argument may, in the discretion of the hearing officer, be in the form of written memoranda, oral argument, or both.

(gg) After final argument, the hearing shall be closed or continued at the discretion of the hearing officer. If continued, it shall be either (a) continued to a certain time and day, announced at the time of the hearing and made a part of the record, or (b) continued to a date to be determined later, which must be upon not less than five days written notice to the parties.

(h) Disruption of Hearing.

(1) **Cameras.** No television, newsreel, motion picture, still or other camera and no mechanical recording devices, other than those provided by the Agency or at its direction, shall be operated in the hearing room during the course of the hearing.

(2) **Other Conduct.** Pursuant to and in accordance with the provisions of Minn. Stat., Section 624.72, no person shall interfere with the free, proper and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt or threaten interference with or disruption of the hearing. In the event of such interference or disruption or threat thereof, the hearing officer shall read this rule to those persons causing such interference or disruption and thereafter proceed as he deems appropriate.

COMC 115 The Agency Decision.

(a) Basis for Determination.

(1) **The Record.** No factual information or evidence, except tax returns and tax reports, which is not a part of the record shall be considered by the hearing officer or the Agency in the determination of a contested case.

(2) **Experience, Technical Competence and Specialized Knowledge.** The hearing officer may use his experience, technical competence, and specialized knowledge in the evaluation of the evidence presented in the case, but

shall in no case base any proposed findings of fact or conclusions of law on any material not contained in the record.

(b) **Proposal for Decision.** The hearing officer shall prepare proposed findings of fact and conclusions of law and submit them to the Agency. The Agency, after reading the evidence and reviewing the entire record, shall then render its decision.

(c) **Decisions and Orders.** The decision or order rendered by the Agency in a contested case shall be in writing and shall be accompanied by findings of fact and conclusions of law. The decision or order shall be served on all parties and an affidavit of service shall be made.

COMC 116 Rehearing.

(a) **Agency Right to Rehear.** The Agency may, upon request or upon its own motion, and for good cause shown, reopen, rehear and redetermine a contested case after a final decision adverse to a party to the contested case, other than the Agency, has been rendered. This right may be exercised until it is lost by appeal or the granting of a writ of certiorari or until a reasonable time has run, but in no event shall the time exceed the time allowed by the statute for appeal or six months, whichever is shorter.

(b) **Obtaining a Rehearing.**

(1) **Parties other than the Agency.** At any time prior to the Agency's loss of the right to rehear a contested case, any party to that case may request a rehearing by filing a petition for rehearing. Such petition shall contain:

(aa) The name and address of the petitioner;

(bb) The Agency designation for the case;

(cc) The reasons for the petition.

(2) **Default Judgments.** A party against whom a default has been adjudged pursuant to Minn. Reg. COMC 108 may obtain a rehearing upon a timely showing of good cause for his failure to appear or plead.

(3) **Determination.** The Agency shall grant or deny a petition for rehearing as a part of the record in the case. Such petition shall be granted if there appears on the face of the petition and record irregularities in the proceedings, errors of law occurring during the proceedings, newly discovered material evidence, a lack of substantial evidence to support the decision or good cause for failure to appear or plead. Evidence and argument may be presented at the discretion of the Agency in written or oral form, or both, by any party to the contested case with respect to the petition.

(c) **Notice of Rehearing.** Notice of rehearing must be provided in the same manner prescribed for notice of hearing.

(d) **Rehearing Procedure.** A rehearing in a contested case shall be conducted in the same manner prescribed for a hearing.

(e) **Decision after Rehearing.** The decision after rehearing shall be made in the same manner prescribed for the decision after a hearing.

COMC 117 Emergency Procedures. Nothing contained in these rules is intended to preempt, repeal or be in conflict with any rule, regulation or statute which provides for acts by the Agency in an emergency or procedure for conduct by the Agency in such a situation.

COMC 118 Severability. If any provision of these rules is held invalid, such invalidity shall not affect any other provision of the rules which can be given effect without the invalid provision, and to this end the provisions of these rules are declared to be severable.

COMC 119 Repealer. All rules or regulations governing contested case procedures previously adopted by any division, section or board of the Department of Commerce, including Minn. Reg. Ins. 120-139 and C S 1-19, but excluding Minn. Reg. COMC 1-70, are hereby repealed.

Filed November 20, 1974.

CHAPTER 2
4 MCAR §§ 1.8020-1.8100
Deceptive Acts and Practices

4 MCAR § 1.8020 Scope and purpose.

A. Rules 4 MCAR §§ 1.8020-1.8100 are promulgated and adopted pursuant to Minn. Stat., § 45.16, subd. 2 (1973) and are promulgated to assist consumers and businessmen by:

1. defining with reasonable specificity acts and practices which violate Minn. Stat. § 325.79 (1973); and

2. protecting consumers from persons who engage in deceptive acts and practices; and

3. encouraging the development of fair consumer sales practices.

B. These rules shall not apply to the sale of merchandise sold for the purpose of resale in the regular course of business.

1. Rules 4 MCAR §§ 1.8020-1.8031 shall not apply to the sale of merchandise usually and customarily sold at a price arrived at through bargaining rather than at a regular price or where there may be a regular price, but where other material factors such as quantity, quality or size are arrived at through bargaining.

C. The enactment of specific regulations defining certain practices by named classes of persons which violate Minn. Stat. § 325.79 (1973), shall not be construed to preclude the application of that section to any other practices by any person which may be in violation of that section.

4 MCAR § 1.8021 Severability. Each substantive rule and every part of each substantive rule is an independent rule and subdivision of a rule, and the holding of any rule or subdivision of a rule to be unconstitutional, void, or ineffective for any cause does not affect the validity or constitutionality of any other rule or subdivision of a rule.

4 MCAR § 1.8022 General definitions. As used in all regulations, unless otherwise specified, in Chapter 2:

A. "Advertisement" means any oral, written, or graphic statement or representation made by a seller and includes, without limitation, statements and representations contained on any label, tag or sign attached to, printed on, or accompanying merchandise, or printed in a catalog or any other sale literature, brochure or circular.

B. "Merchandise" means any objects, wares, goods, commodities, intangibles, real estate, or services.

C. "Price Comparison" means the direct comparison in any advertisement of a seller's current price for merchandise with any other price for such merchandise, or the making of other price reduction claims, statements of value, or savings claims with respect to such merchandise, if expressed in dollars, cents, fractions, or percentages.

D. "Rain Check" means a guarantee of a consumer's entitlement to purchase advertised merchandise at an advertised price.

E. "Regular Price" means the price, in the same quantity, quality and with the same service at which the seller of the merchandise has sold the merchandise for a reasonably substantial period of time, in the recent, regular course of his business. A price is not a regular price unless it is based on a price which does not exceed the seller's cost plus normal markup regularly used by him in the sale of such merchandise in the regular course of business.

F. "Regular Quality" means the quality level at which the seller of the merchandise has sold the merchandise for a reasonably substantial period of time in the recent, regular course of his business.

G. "Sale" means any sale, offer for sale, or attempt to sell any merchandise for consideration.

H. "Seller" means a person engaged in the sale of merchandise and includes individuals, corporation, partnerships, associations, and any other form of business organization or entity, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof.

4 MCAR § 1.8023 Use of the word "Free".

A. It shall be a deceptive act or practice for a seller to advertise "free" merchandise in connection with the sale of other merchandise except in conformity with this regulation. When the consumer is told that merchandise is "free" to him if other merchandise is purchased, the word "free" indicates that he is paying nothing for the "free" merchandise and no more than the regular price for the other merchandise. A consumer has a right to believe that the seller will not directly and immediately recover, in whole or in part, the cost of the "free" merchandise by marking up the price of the merchandise which must be purchased, by substitution of inferior merchandise, or otherwise. It is the express intent of this rule to prohibit the practice of advertising or offering merchandise as "free" when, in fact, the cost of the "free" offer is passed on to the consumer, in whole or in part, by raising the price of the merchandise that must be purchased in connection with the "free" offer or by decreasing the quality or quantity of merchandise that must be purchased in connection with a "free" offer.

B. "Free", as used in this rule, includes the use of such words and terms as "bonus", "gift", "free-of-charge", "prize", "absolutely without charge", "buy one, get one free", "two-for-one sale", "1 cent sale", "50% off with

purchase of two", and words of similar import or meaning, which would reasonably lead a person to believe that he may receive something of value, entirely or in part, without a requirement of compensation. "Free", as used in this regulation, does not include a bona fide quantity discount.

C. When using the word "free" in connection with the sale of merchandise, all the terms, conditions and obligations upon which receipt and retention of the "free" merchandise are contingent shall be set forth clearly and conspicuously. In the case of oral statements or representations, such terms, conditions and obligations shall be stated orally at the outset of the offer. In the case of written statements or representations, such terms, conditions and obligations shall be printed in a type-size no smaller than the predominant type-size used in the body of the ad and shall appear in immediate conjunction with the offer of "free" merchandise. Disclosure of the terms of the offer set forth in a footnote of an advertisement to which reference is made by an asterisk or other symbol placed next to the offer shall not constitute adequate disclosure. A notice of the existence of a "free" offer on the main display panel of a label or package is not precluded under this regulation if:

1. the notice does not constitute an offer or identify the merchandise being offered "free"; and

2. the notice informs the customer of the location, elsewhere on the package or label, where the disclosures required by this rule may be found; and

3. no purchase or other material affirmative act is required in order to discover the terms and conditions of the offer; and

4. the notice and offer are not otherwise deceptive.

D. It is a deceptive act or practice for a seller to offer "free" merchandise when the price of other merchandise required to be purchased exceeds the seller's regular price.

E. No "free" offer shall be made in connection with the introduction of new merchandise offered for sale at a specified price unless:

1. the offerer will discontinue the offer within 90 days after the "free" offer is first stated or specifies the duration of the "free" offer and will discontinue the offer at the specified date which date shall in no event be more than six months after the "free" offer is first stated; and

2. the offerer will commence selling the merchandise promoted, separately, at a price no less than the price at which it was promoted with the "free" offer; and

3. the offerer will continue to sell the merchandise for a reasonable period of time after the termination of the "free" offer at a price no less than the price at which it was promoted with the "free" offer, unless compliance becomes impossible because of circumstances beyond the seller's control.

F. Continuously advertising "free" offers is a deceptive act or practice since the seller's regular price for merchandise to be purchased by consumers in order to avail themselves of the "free" merchandise will, by lapse of time, become the regular price for the "free" merchandise together with the other merchandise required to be purchased. Under such circumstances, an advertisement of "free" merchandise is illusory and deceptive.

4 MCAR § 1.8024 Prohibited price comparisons.

A. Price comparison advertising is a form of advertising commonly used in the sale of merchandise whereby current prices are compared with former or future prices or other stated values to demonstrate price reductions or cost savings. While price comparisons accurately reflecting market values in the trade area provide consumers with useful information in making value comparisons and market buying decisions, price comparisons based on arbitrary or inflated prices or values can only serve to deceive or mislead. Further abuse occurs when sellers fail to disclose material information essential to consumer understanding of the comparisons made. It is the express intent of these rules to insure that the reference price used in a price comparison is a figure which provides meaningful guidance to the consumer.

B. It shall be a deceptive act or practice for any seller to state in any advertisement a price comparison:

1. which is not based on his former actual sale price, his former offered price, his future price, or a competitor's price;

2. in which the nature of the reference price is not disclosed; or

3. in which the merchandise differs in composition, grade or quality, style or design, model, name or brand, kind or variety, or service and performance characteristics, unless the general nature of the material differences is clearly and conspicuously disclosed in the advertisement with the price comparison.

C. These rules shall not be interpreted to require the removal of or to prohibit reference to a base price required by federal law.

4 MCAR § 1.8025 Seller's actual sale prices.

A. Any price comparison made by the seller based on a former price at which merchandise was actually sold by him must be based on a recent regular price at which merchandise was actually sold by him.

B. Notwithstanding 4 MCAR § 1.8025 A., price comparisons may be made by the seller based on any previous regular price which is not a recent regular price at which merchandise was actually sold by him, provided that the advertisement discloses with the price comparison the date, time or seasonal period of such sale.

C. Disclosure of the date, time or seasonal period as required under 4 MCAR § 1.8025 B., need not be made on a label or tag attached to, printed on, or accompanying merchandise of a seasonal nature in the seller's place of business if the comparison is based on a price used during the immediately preceding selling season.

4 MCAR § 1.8026 Seller's offered prices.

A. A price comparison may be made by any seller based on a former price at which he has not actually sold merchandise only if:

1. such price is a price at which such merchandise was offered for sale by him continuously in the regular course of business for the last 30 days immediately preceding the date on which the price comparison is first stated in any advertisement; and

2. in said period the seller has not actually sold the merchandise at any other price; and

3. the merchandise was displayed in a reasonable manner, consistent with the display of merchandise of similar type.

B. Notwithstanding 4 MCAR § 1.8026 A., if the merchandise was not offered for sale by the seller in the last 30 days immediately preceding the date on which the price comparison is first stated in any advertisement, a price comparison may be made based on a price at which the merchandise was offered for sale by him continuously in the regular course of business during any previous 30 day period, provided that:

1. in said period the seller did not actually sell the merchandise at any other price; and

2. the advertisement discloses with the price comparison the date, time or seasonal period of such offer; and

3. the merchandise was displayed in a reasonable manner, consistent with the display of merchandise of similar type.

C. Notwithstanding 4 MCAR § 1.8026 A. and B., no price comparison under this section may be made by any seller based on a price which exceeds the seller's cost plus normal markup regularly used by him in the sale of such merchandise in the regular course of business.

D. Any price comparison made under this section must clearly disclose that the price comparison is based on an offered price and not on a price at which actual sales were made.

4 MCAR § 1.8027 Seller's future prices. A price comparison may be made by any seller based on his future price only if:

A. the effective date of the future price increase is within 90 days after the price comparison is first stated in any advertisement or the effective date of the future price increase is disclosed in the advertisement; and

B. the future price increase takes effect as stated in the advertisement or, if not stated in the advertisement, within 90 days after the price comparison is first stated in the advertisement; and

C. the merchandise is continuously offered for sale at a price not less than the advertised future price for a reasonable period of time after the effective date of the price increase, except where compliance becomes impossible because of circumstances beyond the seller's control, and the merchandise is displayed in a reasonable manner consistent with the display of merchandise of a similar type.

4 MCAR § 1.8028 Competitor's prices. A price comparison may be based on a competitor's price only if:

A. the competitor's price is a price at which the merchandise is sold in the trade area in which the price comparison is made and is not an isolated price; and either

B. the competitor's price is a price at which the competitor sold merchandise at any time within the 30-day period immediately preceding the date on which the price comparison is stated in the advertisement; or

C. the competitor's price is a price at which the competitor sold merchandise more than 30 days but less than 90 days before the date on which the price comparison is stated in the advertisement, provided that clear and conspicuous disclosure is made with the price comparison of the time, date, or seasonal period of the competitor's price.

4 MCAR § 1.8029 Retail price labeling.

A. A price label permanently imprinted on or affixed to merchandise or its container by the manufacturer or supplier at the instigation of the retail seller shall, unless it meets the other requirements of these rules, be removed, covered or obliterated when the retail seller's current offering price is attached to, printed on or placed on a label, tag or sign accompanying such merchandise.

B. A manufacturer shall not permanently imprint on or affix to merchandise, price tickets containing inflated prices as an accommodation to particular retailers who intend to use such prices as a basis for advertising fictitious price reductions.

4 MCAR § 1.8030 Miscellaneous price comparisons. A price comparison shall be deceptive if it contains terms which state or suggest conditions which are not true. Examples of such deceptive price comparisons include:

A. advertising a retail price as a wholesale price; and

B. representing prices to be factory prices when such prices are not the prices paid by persons purchasing directly from the factory.

4 MCAR § 1.8031 Reserved for future use.

4 MCAR § 1.8032 Availability of advertised merchandise.

A. Consumers rightfully expect advertisements of merchandise to represent a bona fide intent to make such merchandise available to all those attracted to the place of business to take advantage of the offer, unless the advertisement discloses that quantities of such merchandise are limited.

B. It is a deceptive act or practice for a seller, in connection with the sale of merchandise, to:

1. fail to state in any advertisement of merchandise as explicitly as reasonably possible, in terms of time or quantities available, the period in which the advertised prices will be effective, when the offer is of limited duration; or

2. fail to state in any advertisement of merchandise the quantity of such merchandise which may be purchased at the advertised price by an individual consumer, when there is such a limitation; or

3. offer merchandise for sale by means of any form of advertisement when such merchandise is not available for sale to the public at or below the advertised price for the period in which the prices are advertised as effective, provided that it shall be a defense to a charge under this subdivision if the seller can demonstrate and document that the advertised offer was made in good faith, based on the fact that the advertised merchandise was ordered in adequate time for delivery in quantities sufficient to meet reasonably anticipated demands, and that the unavailability of merchandise was due to circumstances beyond the control of the seller.

C. In determining the applicability of this rule, the following will be considered:

1. all circumstances surrounding failure to make advertised merchandise conspicuously and readily available for sale at or below advertised prices during the effective period covered by the advertisement; and

2. failure to provide specific, clear, and conspicuous disclosures in all advertisements as to exceptions, limitations, or restrictions as to stores; and

3. availability of a rain check policy, or similar policy will be considered as relevant but will not, in and of itself, constitute compliance with this rule; and

4. a pattern of conduct indicating an intent to not fulfill the reasonably anticipated demand for advertised merchandise; and

5. at what point of time in an offer of limited duration the merchandise was not available for sale.

D. This section shall not apply to:

1. any oral statements or representations made at the seller's place of business, or to any statements or representations contained on any label, tag or sign attached to, printed on, or accompanying merchandise in the seller's place of business; or

2. any statements or representations made in a catalog designed primarily for direct sales to consumers, rather than to attract consumers to the seller's place of business.

4 MCAR § 1.8033 Reporting. To assist in the enforcement of these rules and of Minn. Stat. § 325.79 (1973), when the Director of the Consumer Services Section of the Department of Commerce, from information in his possession, has reasonable ground to believe that any person has violated these rules, or is about to violate these rules, he may require persons whose conduct is governed by these rules to submit a report in writing setting forth information on which an advertisement within the scope of these rules was based. The report shall be submitted within 14 days after receipt of written demand from the director. Additional time for cause shown may be granted upon request.

4 MCAR § 1.8034 Effective date. These rules shall take effect on September 1, 1975, except that with respect to catalogs they shall take effect on January 1, 1976.

4 MCAR §§ 1.8035-1.8100 Reserved for future use.

DIVISION OF CONSUMER SERVICES

CHAPTER 3 (CS 101-130)

SAFE TOYS ACT — ADMINISTRATION

CS 101 Scope and Purpose. Regulations CS 101 to CS 200 are adopted pursuant to the Safe Toys Act, Laws 1973, Chapter 467, coded as Minnesota Statute 325.381 to 325.391 and are promulgated to assist consumers and businessmen in the interpretation of the statute.

CS 102 Definitions. As used in Chapters 3 and 4 of these Regulations:

(a) "Act" means the Safe Toys Act, Laws 1973, Chapter 467, coded as Minnesota Statutes 325.381 to 325.391.

(b) "Asphyxiation or suffocation" means a toy presents a hazard of asphyxiation or suffocation if in normal use and reasonably foreseeable damage or abuse, its design, manufacture or storage presents a risk of personal injury or illness from interference with normal breathing.

(c) "Child" means any person or persons less than 14 years of age.

(d) "Dealer" means any person that sells or distributes any toy to the general public.

(e) "Director" means the Director of the Consumer Services Section of the Department of Commerce.

(f) "Distributor" means any person that sells or distributes any toy at wholesale.

(g) "Electrical hazard" means a toy presents an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by shock or electrocution.

(h) "Flammable" means having a flash point up to 80 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester. The flammability of solids and of the contents of self-pressurized containers shall be determined by methods generally recognized as applicable to the materials or containers and established by these regulations.

(i) "Importer" means any person that imports toys into the State for sale or distribution within the State.

(j) "Manufacturer" means any person that manufactures any toy for sale or distribution.

(k) "Mechanical hazard" means a toy presents a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness:

(1) from fracture, fragmentation or disassembly of the toy;

(2) from propulsion of the toy or any part or accessory thereof;

(3) from points or other protusion, surfaces, edges, openings or closures;

(4) from moving parts;

(5) from lack or insufficiency of controls to reduce or stop motion;

(6) as a result of self-adhering characteristics of the toy;

(7) because the toy or any part or accessory thereof may be aspirated or ingested;

(8) because of instability;

(9) from stuffing material which is not free of dangerous or harmful substances;

(10) because of any other aspect of the toy's design or manufacture.

(l) "Mouth toy" means any toy intended to be placed in or in contact with a child's mouth.

(m) "Person" means any individual, partnership, corporation or association.

(n) "Retail purchase price" means the amount of money paid to acquire a toy offered for sale at retail, excluding transportation and shipping charges, interest, finance or service charges and Minnesota Sales and Use Taxes.

(o) "Thermal hazard" means that a toy presents a "thermal hazard" if, in normal use and reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness because of heat or from heated parts, substances or surfaces.

(p) "Toxic" means able to produce personal injury or illness to a person through ingestion, inhalation or absorption through any body surface and can apply to any substance other than a radioactive substance.

(q) "Toy" means any toy, game or other article designed, labeled, advertised or otherwise intended for use by children.

CS 103 Adoption of the Federal Hazardous Substances Act by Reference.

(a) The following rules and regulations promulgated pursuant to the Federal Hazardous Substances Act and published as Parts 1500 and 1505 in Title 16, Chapter II, Subchapter C (formerly Title 21, Part 191) of the Code of Federal Regulations in the Federal Register, Vol. 38, No. 187 on Thursday, September 27, 1973 and in effect on October 30, 1973 are incorporated herein by reference and hereby made a part of these regulations.*

(1) Part 1500.18 (formerly Part 191.9a): Banned toys and other banned articles intended for use by children.

(2) Part 1500.47 (formerly Part 191.17): Method for determining the sound pressure level produced by toy caps.

(3) Part 1500.86 (formerly Part 191.65a): Exemptions from classification as a banned toy or other banned article for use by children.

(4) Part 1505 (formerly Part 191b): Requirements for electrically-operated toys or other electrically-operated articles intended for use by children.

CS 104 Severability Clause. If any provision of Regulations CS 101 to CS 200 or the application thereof to any person or circumstance is held unconstitutional or invalid, the remainder of Regulations CS 101 to CS 200 and the application of such provision to other persons or circumstances shall not be affected thereby.

**Parts 1500 and 1505 of the Code of Federal Regulations, Title 16, Chapter II, Subchapter C available from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402.*

CS 105 Banned Toys List. The director may, from time to time, publish a list of those toys which fail to meet the standards required by the Act and the regulations adopted pursuant thereto. Such a list shall be for general informational purposes only and shall not constitute an exclusive listing of all toys distributed which are in violation of the Act.

CS 106 Banning and Seizure of Hazardous Toys.

(a) If the director determines that a specific toy is subject to a regulation and fails to meet any standards incorporated therein, he may issue and cause to be served upon the manufacturer and importer a temporary order banning the manufacture, importation, distribution, sale or offering for sale of such toy(s). The order shall be served by registered or certified mail and shall be calculated to give reasonable notice of the time and place for a hearing thereon and shall state the reasons for the entry of the temporary order. The hearing shall be held no later than 10 days after the temporary order has been served upon all parties, after which and within 10 days of the date of the hearing, the director shall issue a further order either vacating, modifying or continuing the order. The order may be modified to include:

(1) directing the manufacturer or importer to repurchase the banned toy(s) in accordance with provisions of CS 107;

(2) directing the manufacturer or importer to bring such toy(s) into conformity with the regulations and standards incorporated therein;

(3) directing such other action as the director deems necessary to ensure compliance with the regulations.

(b) If the director determines that an immediate danger exists to the public health and safety which is caused by a toy which presents an electrical, mechanical or thermal hazard or a toy which presents a hazard due to toxic or flammable properties or properties able to produce asphyxiation or suffocation, he may issue and cause to be served upon the manufacturer, importer or dealer a temporary order banning the manufacture, importation, sale or distribution of such toy. The order shall be served by registered or certified mail and shall be calculated to give reasonable notice of the time and place for a hearing thereon and shall state the reasons for the entry of the temporary order. The hearing shall be held no later than 10 days after the issuance of the temporary order, after which and within 10 days of the date of the hearing, the director shall issue a further order either vacating, modifying or continuing the order.

(c) The director shall apply to the district court to seize toys presenting hazards to the public when no other method to control the hazard exists.

CS 107 Repurchase Procedures.

(a) The procedures prescribed in this regulation shall apply to any toy banned pursuant to the Act, regardless of whether such toy was banned at the time of its sale.

(b)(1) In the case of a person who returns a banned toy which was sold at retail by a dealer, if the person who purchased it from the dealer returns it to him and provides proof of retail purchase price, that dealer shall refund the retail purchase price and shall reimburse the buyer for any reasonable and necessary transportation charges incurred in its return.

(2) In the case of a person who returns a banned toy which was sold at retail by a dealer, if the person who purchased it from the dealer returns it to him and does not provide proof of retail purchase price, the dealer shall refund the person the average retail purchase price charged for such toy during the 12-month period preceding the posting of public notice as required in these regulations. If the dealer is unable to establish the average retail purchase price charged for such a toy, he shall refund the price he last paid for the toy.

(3) Any dealer who makes reimbursement pursuant to subparagraph (2) above shall, upon request from the director or his employee, furnish the director with any information and records used to determine the average retail price described in subparagraph (2). Such information and records shall be available for a period of 12 months.

(4) Refunds of sales and use taxes shall be governed by the State Statutes and the regulations of the Minnesota Department of Revenue relating to the Sales and Use Tax.

(c)(1) A distributor who has sold a banned toy shall repurchase it from the person to whom he sold it and shall refund that person the price paid the distributor for that toy.

(2) If the distributor is repurchasing the banned toy from a dealer who has reimbursed the purchaser for reasonable and necessary transportation charges pursuant to the requirements of paragraph (b), the distributor shall reimburse that dealer for such charges.

(3) If the distributor requires the return of the toy in connection with the repurchase of it in accordance with this paragraph, the distributor shall reimburse any persons for any reasonable and necessary expenses incurred in returning the toy to the distributor.

(d)(1) A manufacturer or importer who has sold a banned toy shall repurchase it from the person to whom he sold it and shall refund that person the price paid the manufacturer for that toy.

(2) The manufacturer or importer shall reimburse a person to whom he sold a banned toy for any reasonable and necessary transportation charges and expenses paid by said persons pursuant to the requirements of paragraphs (b) and (c).

(3) If the manufacturer or importer requires the return of the toy in connection with his repurchase of it in accordance with this paragraph, he shall reimburse any persons to whom he sold it for any reasonable and necessary expenses incurred in returning the toy to the manufacturer or importer.

(e) The manufacturer or importer of a toy subject to repurchase shall immediately notify, in a manner prescribed by the director, each distributor and other person to whom he sold the toy that the toy is a banned toy and is subject to repurchase under the Act. Such notice shall identify the toy involved, including model number or other distinguishing characteristics, set forth the nature of hazards associated with the use of the product, provide instructions for return or other disposition of the toy, and advise that any distributor or dealer who receives the notice is required to provide further notice as specified in the following paragraphs. A distributor, upon receiving such notice, shall, in the same manner, immediately notify, in a manner prescribed by the director, each distributor, dealer, and other person to whom he sold such a toy.

(f)(1) A dealer who sells or has sold a banned toy at a retail establishment shall, upon notification that such a product is a banned toy, immediately prepare and prominently display a list containing identification of the banned product including the model number or other distinguishing characteristics, the name and address of the manufacturer and the nature of the hazards associated with the use of the product, along with the procedure by which a refund, repair or replacement may be obtained by the retail purchaser. Each such banned toy shall be maintained on the list for a period of not less than 120 days from the date the dealer received such notification.

(2) The director may, at any time, require the manufacturer or importer to notify distributors and dealers that a product shall be maintained on said list for a longer period. In this case, the distributor shall so notify persons to whom he sold the banned toy and dealers shall so maintain said list.

(3) The list required by (1) above shall be considered prominently displayed if it is available for inspection at a convenient location in the retail establishment, to which the public has access without having to obtain the permission or assistance of a store employee, and if a sign posted in accordance with the provisions of paragraph (g) clearly indicates the location of the list.

(4) A dealer who displays a list of banned toys pursuant to the Federal Hazardous Substances Act or the Consumer Product Safety Act, which list includes each article and all information required to be displayed pursuant to the Safe Toys Act shall have complied with this paragraph.

(g) A dealer who sells or has sold a banned toy at a retail establishment, upon receiving notification that such product is a banned toy, shall immediately prepare and prominently display a "Notice of Refund Procedures for Banned Toys or Articles for Children" as follows. This notice shall be posted on each floor of each such establishment where items similar to the banned toy are displayed or sold. Each such notice, which shall be not less than 22 by 28 inches in size, shall be printed in a color contrasting with the background and shall be so displayed for a period of not less than 120 days from the date the dealer received the latest such notification, or a longer period if so ordered by the director.

NOTICE OF REFUND PROCEDURES FOR BANNED TOYS OR ARTICLES FOR CHILDREN.

IN ACCORDANCE WITH THE MINNESOTA SAFE TOYS ACT, THIS STORE HAS AVAILABLE A LIST OF TOYS AND OTHER CHILDREN'S ARTICLES THAT HAVE BEEN SOLD IN THIS STORE AND THAT HAVE RECENTLY BEEN BANNED BY THE MINNESOTA OFFICES OF CONSUMER SERVICES.

THESE ARTICLES ARE HAZARDOUS AND SHOULD NOT BE USED. THIS LIST IS AVAILABLE FOR INSPECTION AT: (describe location where available).

THE LIST CONTAINS IDENTIFICATION OF THE BANNED ARTICLE, THE NATURE OF THE HAZARD ASSOCIATED WITH THE ARTICLE, AND HOW A REFUND, REPAIR OR REPLACEMENT MAY BE OBTAINED.

(h) Any notice posted by a dealer in compliance with the Federal Hazardous Substances Act or the Consumer Product Safety Act and which includes

the same information required by the notice in paragraph (g) shall meet the requirements of paragraph (g).

(i) A dealer who sells or has sold a banned toy in other than a retail establishment, shall, upon notification that the product is a banned toy, publicize a clear and conspicuous "Notice of Banned Toy or Children's Article" as follows, in a manner reasonably calculated to reach as many purchasers of the banned product as possible.

NOTICE OF BANNED TOY OR CHILDREN'S ARTICLE

(Insert identification of banned product, including model number or other distinguishing characteristics and name and address of manufacturers).

THE MINNESOTA OFFICE OF CONSUMER SERVICES HAS BANNED THIS PRODUCT AS HAZARDOUS BECAUSE (insert nature of the hazards associated with the use of the product).

THIS PRODUCT SHOULD NOT BE USED. IF YOU HAVE PROOF OF HOW MUCH YOU PAID FOR THE TOY, RETURN THE BANNED PRODUCT TO THE RETAILER WHO SOLD IT TO YOU AND RECEIVE A FULL REFUND OF THE RETAIL PURCHASE PRICE, REPAIR OR REPLACEMENT, AND ANY REASONABLE AND NECESSARY COSTS INCURRED IN RETURNING THE PRODUCT.

IF YOU DO NOT HAVE PROOF OF HOW MUCH YOU PAID FOR THE TOY, YOU MAY RETURN THE TOY TO THE RETAILER WHO SOLD IT TO YOU AND RECEIVE A PARTIAL REFUND, REPAIR OR REPLACEMENT, AND ANY REASONABLE AND NECESSARY COSTS INCURRED IN RETURNING THE ARTICLE.

(j) Any notice published by a dealer in compliance with the Federal Hazardous Substances Act or the Consumer Product Safety Act and which includes the same information required by the notice in paragraph (i) shall meet the requirements of paragraph (i).

(k) The notice provisions of paragraphs (g) and (i) are not mutually exclusive.

CS 108 Manufacturers Initiative. Where a manufacturer or importer discovers that a toy he is selling or has sold is in violation of these regulations, the manufacturer or importer shall initiate the same listing, notification and repurchase procedures as set out in CS 107 and shall notify the director of his action within 72 hours of discovering the violation.

CS 109-CS 114 (Reserved for future use).

CS 115 Testing of Toys.

(a) Each manufacturer of toys shall test all his toys which are subject to applicable regulations found in CS 101-200 and which are currently being manufactured for sale or distribution within the State. The tests shall be conducted to ensure compliance with all applicable regulations and standards found in CS 101-200. Each manufacturer shall provide the results of these tests to any person who imports his toy into this state.

(b) Each manufacturer of toys shall test all his toys which are subject to applicable regulations found in CS 101-200 prior to introduction for sale or distribution in the State. The tests shall be conducted to ensure compli-

ance with all applicable regulations and standards found in CS 101-200. Each manufacturer shall provide the results of these tests to any person who imports his toy into the State.

(c) A copy of all test results for each toy introduced for sale or distribution in the State shall be kept by each manufacturer and importer who manufactures or imports that toy. Such test results shall be presented to the director upon 72 hours notice from the director or his employee.

(d) Pursuant to an order issued to a manufacturer or importer the director may require that all test results be filed with his office prior to the introduction of any new toys into the State for distribution or sale by that manufacturer or importer.

(e) When a manufacturer or importer fails to comply with paragraphs (a) through (d), the director may issue and serve upon that manufacturer or importer an order banning the sale, offering for sale, importation, distribution, or manufacture of any toy for which test results are not available. The order shall be served by mail and shall be calculated to give reasonable notice of the time and place for a hearing thereon and shall state the reasons for the entry of the order.

(f) The provisions of CS 115 shall be applied to all toys sold in Minnesota 120 days after the effective date of the regulations.

CHAPTER 4 (CS 131-200)

SAFE TOYS ACT — STANDARDS FOR TOYS

CS 131 Toys Containing Glass. (a) No person, firm, corporation, association or agent or employee thereof shall import, manufacture, sell, hold for sale or distribute a toy or other article intended for use by children which contains glass, unless the glass is protected in such a way that no glass particle or edges will be accessible when a toy is subjected to normal use or reasonably foreseeable damage or abuse.

(b) The provisions of Section A shall not apply to non-toy glass articles used during the consumption of food or beverages, glass containers for prescriptions and health and beauty aid products, chemistry sets and other science education sets intended primarily for use by children, children's prescription eyewear, children's vacuum bottles, or light bulbs and similar illuminating devices that are components of toys.

CS 132 Toy Chests and Similar Articles. (a) No person, firm, corporation, association or agent or employee thereof shall import, manufacture, sell, hold for sale or distribute any toy chest or similar article intended for use by children which does not comply with the provisions of Sections B through D of this regulation.

(b) **Instructions Included With Nonassembled Toy Chests.**

(1) Toy chests and similar articles intended for use by children, unless they are sold completely assembled to the consumer, shall be accompanied by detailed instructions that include an assembly drawing, a list and description of all parts and tools required for assembly, and a full-size diagram of the required bolts and other fasteners.

(2) The instructions shall be written so that an unskilled laymen following the instructions can correctly assemble the article without making errors which would result in improper or unsafe assembly. The instructions shall include cautionary statements concerning tightening of bolts and other fasteners.

(c) **Requirements for Design and Construction:**

(1) The article shall have no components which:

(i) have the potential for causing injury by shearing, scissoring, or pinching actions;

(ii) have the potential for causing laceration or puncture-wound injury;

(iii) have sharp or rough edges;

(iv) are threaded hardware which protrude more than one diameter beyond the internally threaded fastener or structural member.

(2) All wood parts and surfaces shall be smooth and free from splinters, splits, cracks, and similar defects.

(3) No attachments (including, but not limited to, built-in toys, decorations, and design components), and no part thereof which will become accessible when subjected to normal use or reasonably foreseeable damage or abuse, shall have laceration or puncture injury potential.

(4) If the article or a component thereof has a continuous enclosed volume greater than 1.1 cubic feet and a smaller internal dimension of 6 inches or more, it must comply with the following:

(i) the article or component shall have no positive latching device;

(ii) any vertically opening door or lid which is self-closing due to the article's design and which weighs more than 3 pounds shall be counterbalanced and require a force of less than 1½ pounds for opening as measured at the point or edge opposite the hinge(s);

(iii) the article shall be ventilated through at least two openings which together total at least 2 square inches in area. Each such opening shall be located either in the top surface and in the upper ¼ of at least one vertical surface, or in the upper ¼ of at least two vertical surfaces of the enclosure. The openings shall be at least 10 inches apart at their edges as measured across the surface(s). The article shall contain structural features which permit the passage of air when the ventilated surface is contiguous with a solid, flat surface such as a wall.

CS 133 Children's Vacuum Bottles. (a) No person, firm, corporation, association or agent thereof shall import, manufacture, sell, hold for sale or distribute any vacuum bottle with a capacity of 16 ounces or less which is intended for use by children unless it is designed and constructed to pass the tests described in Section B.

(b) **Impact Medium.** The impact medium shall consist of a 0.125-inch nominal thickness of type IV vinyl-asbestos tile, as specified in Federal Specification SST-312A, over at least a 2.5-inch thickness of concrete. The impact area shall be at least 3 square feet.

(c) **Test Procedure.** The test shall consist of dropping a fully assembled vacuum bottle, filled to the neck with water at 36 degrees to 40 degrees Fahrenheit, a minimum of four times from a height of 3 feet. The vacuum bottle shall be dropped in random orientation. After each drop, the test sample shall be allowed to come to rest and examined and evaluated before continuing. If the glass filler breaks on any of the first three drops, the test can be terminated on the particular drop on which the filler breaks. Accessibility of glass particles on or near the impact medium, or in the liquid when the test is completed, shall constitute failure. Accessibility of glass in the liquid shall be determined by opening the cap and emptying the contents.

CHAPTER ONE: LICol 1-10
DEFINITIONS

LICol 1 (Department). "Department" means the Department of Labor and Industry.

LICol 2 (Commissioner). "Commissioner" means the Commissioner of the Department of Labor and Industry.

LICol 3 (Board). "Board" means the collection agency advisory board.

LICol 4 (Collection Agency). "Collection Agency" means and includes:

(a) Any person engaged in the business of collection for others any account, bill or other indebtedness except as provided in Laws 1969, Chapter 766. It includes persons who furnish collection systems carrying a name which simulates the name of a collection agency and who supply forms or form letters to be used by the creditor, even though such forms direct the debtor to make payments directly to the creditor rather than to such fictitious agency.

(b) Agencies whose principal place of business is outside the state of Minnesota; and

(i) whose solicitors work within the state to sell collection systems or solicit accounts for collection; and/or

(ii) whose collectors collect accounts within the state.

LICol 5-10 (Reserved for future use)

CHAPTER TWO: LICol 11-20
INITIAL LICENSING

LICol 11 Forms. All persons seeking to operate a collection agency in the state of Minnesota shall file and obtain a license from the department. The department will supply upon request:

(a) Application forms.
(b) Bond forms.
(c) Questionnaire for each officer or manager.
(d) Financial statement form.

LICol 12 License Fee. The license shall be for one year from date of issuance. The license fee is $100.00 payable at the time of application.

LICol 13 Investigation Fee. Applicants for a new license shall pay an investigation fee as determined by the department, subject to the provisions of the law.

LICol 14 Unforeseen Changes:

(a) Every licensee shall notify the commissioner of any change of office location within ten days of such change.

(b) Upon the death of any collection agency licensee, the license of the decedent may be transferred to the executor or administrator of his estate for the unexpired term of the license. The executor or administrator may be authorized to continue or discontinue the collection business of the decedent under the direction of the court having jurisdiction of the probate.

(c) Any changes in ownership, controlling interest, or personnel, from that reported on the application, shall be reported to the department within ten days.

LICol 15-20 (Reserved for future use)

CHAPTER THREE: LICol 21-25
RENEWAL LICENSING

LICol 21 Forms. The department will supply license renewal forms.

LICol 22 Submission. Completion of these forms and submission to the department must be made at least forty-five days prior to expiration date on the license.

LICol 23-25 (Reserved for future use)

CHAPTER FOUR: LICol 26-30
BOND

LICol 26 Surety Bond. The department shall require a corporate surety bond for each license location. The bond shall be in the sum of $5,000.00.

LICol 27-30 (Reserved for future use)

CHAPTER FIVE: LICol 31-35
ADVISORY BOARD

LICol 31 Expenses. Members of the board shall be reimbursed their actual and necessary expenses incurred while attending regular or special meetings in accordance with the established travel regulations of the state of Minnesota.

LICol 32-35 (Reserved for future use)

CHAPTER SIX: LICol 36-40
INVESTIGATIONS

LICol 36 Collection Records of Licensee. The department may investigate the collection records of a licensee, and for that purpose the department shall have free access to the books and records of a licensee.

LICol 37 Form Letters and Stationery. All form letters and stationery used or sold by the collection agency shall be available at all times for inspection by the department.

LICol 38-40 (Reserved for future use)

CHAPTER SEVEN: LICol 41-60
PROHIBITED PRACTICES

LICol 41 Threaten Suit. In collection letters or publications, or in any communication, oral or written, threaten wage garnishment or legal suit by a particular lawyer, unless it has actually retained such lawyer.

LICol 42 Employ Public Officers. Use or employ justices of the peace, constables, sheriffs or any other officer authorized to serve legal papers in connection with the collection of a claim, except when performing their legally authorized duties.

LICol 43 Methods of Collection. Use or threaten to use methods of collection which violate Minnesota law.

LICol 44 Engage in Practice of Law. Furnish legal advice or otherwise engage in the practice of law or represent that it is competent to do so.

LICol 45 Communicating with Debtor. Communicate with debtors in a misleading or deceptive manner by using the stationery of a lawyer, forms or instruments which only lawyers are authorized to prepare, or instruments which simulate the form and appearance of judicial process.

LICol 46 Authorize Legal Action. Exercise authority on behalf of a creditor to employ the services of lawyers unless the creditor has specifically authorized the agency in writing to do so and the agency's course of conduct is at all times consistent with a true relationship of attorney and client between the lawyer and the creditor.

LICol 47 Black Listing. Publish or cause to be published any list of debtors except for credit reporting purposes, use shame cards or shame automobiles, advertise or threaten to advertise for sale any claim as a means of forcing payment thereof, or use similar devices or methods of intimidation.

LICol 48 Accounting to Creditor. Refuse to return any claim or claims and all valuable papers deposited with a claim or claims upon written request of the creditor, claimant or forwarder after tender of such amounts due and owing to the agency within 30 days after such request; refuse or intentionally fail to account to its clients for all money collected within 30 days from the last day of the month in which the same is collected; or refuse or fail to furnish at intervals of not less than 90 days upon written request of the claimant or forwarder, a written report upon claims received from such claimant or forwarder.

LICol 49 Improper Agency Name. Operate under a name or in a manner which implies that such agency is a branch of or associated with any department of federal, state, county or local government or an agency thereof.

LICol 50 Comingling of Funds. Comingling money collected for a customer with the agency's operating funds or use any part of a customer's money in the conduct of the agency's business.

LICol 51 Debt Prorater. Transact business or hold itself out as a debt prorater, debt adjuster, or any person who settles, adjusts, prorates, pools, liquidates or pays the indebtedness of a debtor, unless there is no charge to the debtor, or the pooling or liquidation is done pursuant to court order or under the supervision of a creditor's committee.

LICol 52-60 (Reserved for future use)

CHAPTER EIGHT: LICol 61-65
DELINQUENT COLLECTION AGENCIES

LICol 61 Liquidating Agency. In order to liquidate or rehabilitate a collection business, the department may establish a bank account. The department may both deposit and withdraw from the account.

LICol 62-65 (Reserved for future use)

CHAPTER NINE: LICol 66-75
REJECTION OR SUSPENSION OF LICENSE

LICol 66 Notice of Rejection or Suspension. Written notice of the rejection of an application, or written notice of the revocation or suspension of a license, and the reasons for such rejection, revocation or suspension shall be served by mail upon the applicant at the address stated in his application or license.

LICol 67 Hearing Rights. Applicant shall have thirty days from receipt of the notice of rejection or notice of revocation or suspension in which to make application for hearing before the commissioner or his appointee.

LICol 68 Application for Hearing. Application for hearing shall contain:

(a) The name and address of applicant.

(b) A statement of the nature of the determination requested.

(c) Attested signature of the applicant.

LICol 69 Notice of Application. The department shall serve upon the applicant a notice of application within five days after receipt of application for hearing. The notice of application shall be served by mail and contain:

(a) A general statement of the issues.

(b) A statement of rights of parties.

(c) Notification of when and where pre-hearing conference will be held.

(d) A statement of the purpose of the pre-hearing conference.

(e) Signature of a person authorized to initiate a contested case.

(f) The date of issuance of the notice.

LICol 70 Rights. Parties to a contested case shall have all rights under Chapter 15 of Minnesota statutes.

LICol 71-75 (Reserved for future use)

CHAPTER ONE: INS 1-19
GENERAL RULES

Ins 1 Language Requirements

(a) The English langauge shall be used in the printing of all policies of insurance covering property in this state and also in the keeping of the records of the insurance company.

(b) Bylaws shall be printed in the English language but they may be printed in a foreign language as well. Any company affected by this ruling shall comply with it immediately.

Ins 2 Commencement of Litigation Clause. No policy, rider or endorsement form shall be accepted for filing by this department from any casualty insurance company which contains a provision limiting the time within which legal proceedings may be instituted against the insurer by the insured to a period less than two years.

Ins 3 Statutory Deposits with Commissioner

(a) Registered securities will not be accepted for deposit unless registered in the following manner: "Commissioner of Insurance of the State of Minnesota for the benefit of all policyholders of the Depositor."

(b) Mortgage deposits shall be accompanied by an assignment thereof to the Commissioner of Insurance.

(c) In all cases where mortgages are deposited, credit toward the deposit may not exceed the value of the lands secured without regard to improvements.

(d) Independent appraisals setting out the value of the land shall be filed to enable the department to determine the allowable value of the mortgages deposited.

Ins 4 Equal Treatment of Minnesota Policyholders. For the purpose of eliminating discrimination against Minnesota policyholders:

(a) All domestic companies issuing nonassessable policies in any other state, territory or jurisdiction shall establish a guaranty fund as provided by law and issue a nonassessable contract in Minnesota, or withdraw immediately from other states, territories or jurisdictions in which the issuance of an assessable policy is not permitted.

(b) All foreign companies which issue nonassessable contracts in any other state, territory or jurisdiction shall also issue nonassessable contracts in the State of Minnesota, provided the companies can comply with Minnesota laws relating to issuance of policies without a contingent liability. If compliance is not possible, then the company shall withdraw from the State of Minnesota and refrain from issuing any policies in this state, or withdraw from and surrender its license in any state, territory or jurisdiction in which the Company is issuing nonassessable contracts.

Ins 5 - 19 Reserved for Future Use

Ins 5 Qualifications of Actuaries Signing Annual Statements and Other Documents; Use of the Terms Actuary and Actuarial.

(a) **Scope.** This regulation shall apply to annual statements filed with the Insurance Commissioner in accordance with Minnesota Statutes, Section 60A.13, and all other reports and documents relating to the business of insurance filed with the Commissioner or issued to the public.

(b) **Purpose.** The purpose of this regulation is to establish standards for use of the terms "actuary" and "actuarial". It is not the purpose of this regulation to require any insurer or other person to employ an actuary except as may be required by statute or another regulation.

(c) **Qualified Actuary Defined.** For the purpose of this regulation, a qualified actuary is:

(1) A member of the American Academy of Actuaries; or

(2) An individual who has demonstrated to the satisfaction of the Commissioner of Insurance that he has the educational background necessary for the practice of actuarial science and that he has not less than seven years of actuarial experience.

(d) **Signing as Actuary.** No annual statement, report, or document relating to the business of insurance shall be filed with the Insurance Commissioner or issued to the public if it is signed by a person who represents himself in such instrument to be an actuary, and said person is not a qualified actuary as defined herein.

(e) **Use of Terms Actuary and Actuarial.** Whenever the term "actuary", or "actuarial", is used in any representation relating to the business of insurance made to the Insurance Commissioner or to the public, it shall be understood to mean a qualified actuary or having the attributes of a qualified actuary.

(f) **Penalty.** A violation of any of the provisions of this regulation shall be deemed a violation of Minnesota Statutes, Section 72A.19, and punishable in accordance with Minnesota Statutes, Section 72A.25.

(g) **Effective Date.** This regulation shall become effective 30 days after the filing thereof with the Secretary of State.

Filed February 8, 1973.

CHAPTER TWO: INS 20-29
AGENTS' LICENSES

Ins 20 Agents' Licenses

(a) Insurance agents' licenses will not be issued to minors.

(b) In the absence of other objections, minors will be licensed as solicitors upon proper application.

Ins 21-29 Reserved for Future Use.

CHAPTER THREE, PART A: INS 30-42

REGULATIONS RELATING TO PROXIES, CONSENTS AND AUTHORIZATIONS USED FOR EQUITY SECURITIES OF DOMESTIC STOCK INSURERS.

Ins 30 Application of Regulations.

These regulations are applicable to each domestic stock insurer (which shall include a domestic stock and mutual insurer as defined in Minnesota Statutes, Sections 61A.33 to 61A.36) which has any class of equity security held of record by 100 or more persons; provided, however, that these regulations shall not apply to any insurer if 95% or more of its equity securities are owned or controlled by a parent or an affiliated insurer and the remaining securities are held of record by less than 500 persons. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities Exchange Act of 1934, as amended, and the applicable regulations promulgated thereunder shall be exempt from these regulations.

Ins 31 Disclosure of Equivalent Information.

Unless proxies, consents or authorizations in respect of any class of equity security of a domestic insurer subject to Minn. Reg. Ins 30 are solicited by or on behalf of the management of such insurer from the holders of record of such security in accordance with these regulations and the schedules hereunder prior to any annual or other meeting of such security holders, such insurer shall, in accordance with these regulations and such further regulations as the Commissioner may adopt, file with the Commissioner and transmit to all equity security holders of record information substantially equivalent to that information which would be required to be transmitted if a solicitation were made. Such insurer shall transmit a written information statement containing the information specified in Minn. Reg. Ins 33(d) to every equity security holder who is entitled to vote in regard to any matter to be acted upon at the meeting and from whom a proxy is not solicited on behalf of the management of the insurer; provided, that in the case of a class of securities in unregistered or bearer form, such statement need be transmitted only to those security holders whose names and addresses are known to the insurer.

Repealed 7 SR 1570 5-2-83

Ins 32 Definitions.

(a) The definitions and instructions set out in Schedule SIS, Stockholder Information Supplement, as promulgated by the National Association of Insurance Commissioners, shall be applicable for purposes of these regulations.

(b) The terms "solicit" and "solicitation" for purposes of these regulations shall include:

(1) any request for a proxy, whether or not accompanied by or included in a form of proxy; or

(2) any request to execute or not to execute, or to revoke, a proxy, or

(3) the furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(c) The terms "solicit" and "solicitation" shall not include:

(1) any solicitation by a person in respect of securities of which he is the beneficial owner;

(2) action by a broker or other person in respect of securities carried in his name or in the name of his nominee in forwarding to the beneficial owner of such securities soliciting material received from the insurer, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner desires to give a proxy, or impartially requesting instructions from the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;

(3) the furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

(d) The following terms shall have the following meanings, unless the context otherwise requires:

(1) An "affiliate" of, or a person affiliated with a specified person, is a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) The term "associate" used to indicate a relationship with any person means (i) any corporation or organization (other than the insurer or a majority-owned subsidiary of the insurer) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of ten per cent or more of any class of equity security, (ii) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (iii) any relative or spouse of such person, or any relative or such spouse, who has the same home as such person or who is a director or officer of the insurer or any of its parents or subsidiaries.

(3) The term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities by contract, or otherwise.

(4) A "parent" of a specified person is an affiliate controlling such person directly, or indirectly through one or more intermediaries.

(5) The term "person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization, or a government or political subdivision thereof. As used in this paragraph, the term "trust" shall include only a trust where the interest or interests of the beneficiary or beneficiaries are evidenced by a security.

(6) A "subsidiary" of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

(7) The term "security holder" shall not include a policyholder of a domestic stock and mutual insurer.

(e) The term "Commissioner" shall mean the Commissioner of Insurance of the State of Minnesota.

Ins 33 Information to be Furnished to Security Holders.

(a) No solicitation subject to these regulations shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Minn. Reg. Ins 41 (Schedule A).

(b) If the solicitation is made on behalf of the management of the insurer and relates to an annual meeting of security holders at which directors are to be elected, each proxy statement furnished pursuant to section (a) of this regulation shall be accompanied or preceded by an annual report (in preliminary or final form) to such security holders containing such financial statements for the last fiscal year as are referred to in Schedule SIS, Stockholder Information Supplement, as promulgated by the National Association of Insurance Commissioners, under the heading "Financial Reporting to Stockholders." Subject to the foregoing requirements with respect to financial statements, the annual report to security holders may be in any form deemed suitable by the management.

(c) Two copies of each report sent to the security holders pursuant to this regulation shall be mailed to the Commissioner not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the Commissioner pursuant to Minn. Reg. Ins 36 (a), whichever date is later.

(d) If no solicitation is being made by management of the insurer with respect to any annual or other meeting, such insurer shall mail to every security holder of record at least twenty days prior to the meeting date, an information statement as required by Minn. Reg. Ins 31, containing the information called for by all of the Items of Schedule A, other than Items 1, 3 and 4 thereof, which would be applicable to any matter to be acted upon at the meeting if proxies were to be solicited in connection with the meeting. If such information statement relates to an annual meeting at which directors are to be elected, it shall be accompanied by an annual report to such security holders in the form provided in section (b) of this regulation.

Repealed 7SR 1370 5-2-83

Ins 34 Proxies, Consents and Authorizations.

No domestic stock insurer, or any director, officer or employee of such insurer subject to Minn. Reg. Ins 30, or any other person, shall solicit, or permit the use of his name to solicit, by mail or otherwise, any proxy, consent or authorization in respect of any class of equity security of such insurer held of record by 100 or more persons in contravention of these regulations, including Minn. Reg. Ins 41 (Schedule A) and Minn. Reg. Ins 42 (Schedule B).

Ins 35 Requirements as to Proxy and Information Statement.

(a) The form of proxy (1) shall indicate in boldface type whether or not the proxy is solicited on behalf of the management, (2) shall provide

a specifically designated blank space for dating the proxy, and (3) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management or security holders. No reference need be made to proposals as to which discretionary authority is conferred pursuant to section (c) of this regulation.

(b) Means shall be provided in the proxy for the person solicited to specify by ballot a choice between approval or disapproval of each matter or group of related matters referred to therein, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified if the form of proxy states in boldface type how it is intended to vote the shares or authorization represented by the proxy in each such case.

(c) A form of proxy which provides both for elections to office and for action on other specified matters shall be prepared so as to clearly provide, by a box or otherwise, means by which the security holder may withhold authority to vote for elections to office. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for elections to office shall be deemed to grant such authority, provided the form of proxy so states in boldface type.

(d) A proxy may confer discretionary authority with respect to other matters which may come before the meeting, provided the persons on whose behalf the solicitation is made are not aware a reasonable time prior to the time the solicitation is made that any other matters are to be presented for action at the meeting and provided further that a specific statement to that effect is made in the proxy statement or in the form of proxy.

(e) No proxy shall confer authority (1) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or (2) to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders.

(f) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the proxy will be voted and that where the person solicited specifies by means of ballot provided pursuant to section (b) and (c) of this regulation a choice with respect to any matter to be acted upon, the vote will be in accordance with the specifications so made.

(g) The information included in the information statement or proxy statement shall be clearly presented, and the statements made shall be divided into groups according to subject matter, with appropriate headings. All printed information statements or proxy statements shall be clearly and legibly presented.

Ins 36 Material Required to be Filed.

(a) Two preliminary copies of the information statement or the proxy statement, form of proxy, and any other soliciting material to be furnished to security holders concurrently therewith shall be filed with the Commissioner at least ten days prior to the date definitive copies of such material are first sent or given to security holders, or such shorter period prior to that date as the Commissioner may authorize upon a showing of good cause therefor.

(b) Two preliminary copies of any additional soliciting material, relating to the same meeting or subject matter, to be furnished to security holders subsequent to the proxy statement shall be filed with the Commissioner at least two days (exclusive of Saturdays, Sundays or holidays) prior to the date copies of such material are first sent or given to security holders, or such shorter period prior to that date as the Commissioner may authorize upon a showing of good cause therefor.

(c) Two definitive copies of the information statement or the proxy statement, form of proxy, and all other soliciting material, in the form in which such material is furnished to security holders, shall be filed with, or mailed for filing to, the Commissioner not later than the date such material is first sent or given to the security holders.

(d) Where any information statement or proxy statement, form of proxy, or other material filed pursuant to this regulation is amended or revised, two of the copies shall be marked to clearly show such changes.

(e) Copies of replies to inquiries from security holders requesting further information and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this regulation.

(f) Notwithstanding the provisions of sections (a) and (b) of this regulation and of section (e) of Minn. Reg. Ins 40, copies of soliciting material in the form of speeches, press releases, and radio or television scripts may, but need not, be filed with the Commissioner prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the Commissioner as required by section (c) of this regulation not later than the date such material is used or published. The provisions of sections (a) and (b) of this regulation and of section (e) of Minn. Reg. Ins 40 shall apply, however, to any reprints or reproductions of all or any part of such material.

Ins 37 Reserved.

Ins 38 False or Misleading Statements.

No proxy statement, form of proxy, notice of meeting, information statement, or other communication, written or oral, subject to these regulations shall contain any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the same meeting or subject matter which has become false or misleading.

Ins 39 Prohibition of Certain Solicitations.

No person making a solicitation which is subject to this regulation shall solicit any undated or postdated proxy or any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the security holder.

Ins 40 Special Provisions Applicable to Election Contests.

(a) **Applicability.** This regulation shall apply to any solicitation subject to these regulations by any person or group with respect to the election or removal of directors at any annual or special meeting of security holders.

(b) **Participant or Participant in a Solicitation.**

(1) For purposes of this regulation the terms "participant" and "participant in a solicitation" include: (A) the insurer; (B) any director of the insurer, and any nominee for whose election as a director proxies are solicited; (C) any other person, acting alone, or with one or more other persons, committees, or groups, in organizing, directing or financing the solicitation.

(2) For the purpose of this regulation the terms "participant" and "participant in a solicitation" do not include: (A) a bank, broker or dealer who, in the ordinary course of business, lends money or executes orders for the purchase or sale of securities and who is not otherwise a participant; (B) any person or organization retained or employed by a participant to solicit security holders, or any person who merely transmits proxy soliciting material or performs ministerial or clerical duties; (C) any person employed in the capacity of attorney, accountant, or advertising, public relations or financial advisor, and whose activities are limited to the performance of his duties in the course of such employment; (D) any person regularly employed as an officer or employee of the insurer, or any of its subsidiaries or affiliates who is not otherwise a participant; or (E) any officer or director of, or any person regularly employed by, any other participant, if such officer, director, or employee is not otherwise a participant.

(c) **Filing of Information Required by Schedule B.**

(1) No solicitation subject to this regulation shall be made by any person other than the management of an insurer unless at least five business days prior thereto, or such shorter period as the Commissioner may authorize upon a showing of good cause therefor, there has been filed with the Commissioner, by or on behalf of each participant in such solicitation, a statement in duplicate containing the information specified in Minn. Reg. Ins 42 (Schedule B) and a copy of any material proposed to be distributed to security holders in furtherance of such solicitation. Where preliminary copies of any materials are filed, distribution to security holders should be deferred until the Commissioner's comments have been received and complied with.

(2) Within five business days after a solicitation subject to this regulation is made by the management of an insurer, or such longer period as the Commissioner may authorize upon a showing of good cause therefor, there shall be filed with the Commissioner by or on behalf of each participant in such solicitation, other than the insurer, a statement in duplicate containing the information specified in Schedule B.

(3) If any solicitation on behalf of management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this section in opposition thereto, a statement in duplicate containing the information specified in Schedule B shall be filed with the Commissioner by or on behalf of each participant in such prior solicitation, other than the insurer, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto.

(4) If, subsequent to the filing of the statements required by subsections (1), (2) and (3) of this section, additional persons become participants in a solicitation subject to this regulation, there shall be filed with the Commissioner, by or on behalf of each such person, a statement in duplicate containing the information specified in Schedule B, within three business days after such person becomes a participant, or such longer period as the Commissioner may authorize upon a showing of good cause therefor.

(5) If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to such statement shall be filed promptly with the Commissioner.

(6) Each statement and amendment thereto filed pursuant to this section shall be part of the public files of the Commissioner.

(d) **Solicitations Prior to Furnishing Required Written Proxy Statement.**

Notwithstanding the provisions of Minn. Reg. Ins 33(a), a solicitation subject to this regulation may be made prior to furnishing security holders a written proxy statement containing the information specified in Minn. Reg. Ins 41 (Schedule A) with respect to such solicitation, provided that:

(1) The statements required by section (e) of this regulation are filed by or on behalf of each participant in such solicitation.

(2) No form of proxy is furnished to security holders prior to the time the written proxy statement required by Minn. Reg. Ins 33(a) is furnished such persons; provided, however, that this subsection (2) shall not apply where a proxy statement then meeting the requirements of Minn. Reg. Ins 41 (Schedule A) has been furnished to security holders.

(3) At least the information specified in Items 2(a) and 3(a) of Schedule B or an appropriate summary thereof, is included in each communication sent or given to security holders in connection with the solicitation.

(4) A written proxy statement containing the information specified in Minn. Reg. Ins 41 (Schedule A) with respect to a solicitation is sent or given security holders at the earliest practicable date.

(e) **Solicitations Prior to Furnishing Required Written Proxy Statement -- Filing Requirements.**

Two copies of any soliciting material proposed to be sent or given to security holders prior to the furnishing of the written proxy statement required by Minn. Reg. Ins 33(a) shall be filed with the Commissioner in preliminary form at least five business days prior to the date definitive copies of such material are first sent or given to such persons, or such shorter period as the Commissioner may authorize upon a showing of good cause therefor.

(f) **Application of this Section to Annual Report.**

Notwithstanding the provisions of Minn. Reg. Ins 33(b) and (c), two copies of any portion of the annual report referred to in Minn. Reg. Ins 33(b) which comments upon or refers to any solicitation subject to this regulation, or to any participant in any such solicitation, other than the solicitation by the management, shall be filed with the Commissioner as

proxy material subject to these regulations. Such portion of the report shall be filed with the Commissioner in preliminary form at least five business days prior to the date copies of the report are first sent or given to security holders.

Ins 41 SCHEDULE A - INFORMATION REQUIRED IN PROXY STATEMENT.

Item 1. Revocability of Proxy.

State whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

Item 2. Dissenters' Right of Appraisal.

Outline briefly the rights of appraisal or similar rights of dissenting security holders with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by dissenting security holders in order to perfect such rights. Where such rights may be exercised only within a limited time after the date of the adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of such date.

Item 3. Persons Making Solicitations.

(a) If the solicitation is made by the management of the insurer, so state. Give the name of any director of the insurer who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose.

(b) If the solicitation is made otherwise than by the management of the insurer, state the names and addresses of the persons by whom and on whose behalf it is made and the names and addresses of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

(c) If the solicitation is to be made by specially engaged employees or paid solicitors, state (1) the material features of any contract or arrangement for such solicitation and identify the parties, and (2) the cost or anticipated cost thereof.

Item 4. Interest of Certain Persons In Matters to be Acted Upon.

Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of any director, nominee for election for director, officer and, if the solicitation is made otherwise than on behalf of management, each person on whose behalf the solicitation is made, in any matter to be acted upon other than elections to office.

Item 5. Voting Securities.

(a) State, as to each class of voting securities of the insurer entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled.

(b) Give the date as of which the record list of security holders entitled to vote at the meeting will be determined. If the right to vote is not

limited to security holders of record on that date, indicate the conditions under which other security holders may be entitled to vote.

(c) If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights, make a statement that they have such rights and state briefly the conditions precedent to the exercise thereof.

Item 6. Nominees and Directors.

If action is to be taken with respect to the election of directors, furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting:

(a) Name each such person, state when his term of office or the term of office for which he is a nominee will expire, and all other positions and offices with the insurer presently held by him, and indicate which persons are nominees for election as directors at the meeting.

(b) State his present principal occupation or employment and give the name and principal business of any corporation or other organization in which such employment is carried on. Furnish similar information as to all of his principal occupations or employments during the last five years, unless he is now a director and was elected to his present term of office by a vote of security holders at a meeting for which proxies were solicited under this regulation.

(c) If he is or has previously been a director of the insurer, state the period or periods during which he has served as such.

(d) State, as of the most recent practicable date, the approximate amount of each class of equity securities of the insurer or any of its parents, subsidiaries or affiliates, other than directors' qualifying shares, beneficially owned directly or indirectly by him. If he is not the beneficial owner of any such securities, make a statement to that effect.

Item 7. Renumeration and Other Transactions with Management and Others.

Furnish the information reported or required in Item 1 of Schedule SIS, Stockholder Information Supplement, as promulgated by the National Association of Insurance Commissioners, under the heading "Information Regarding Management and Directors" if action is to be taken with respect to (a) the election of directors, (b) any remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the insurer will participate (c) any pension or retirement plan in which any such person will participate, or (d) the granting or extension to any such person of any options, warrants or rights to purchase any securities other than warrants or rights issued to security holders, as such, on a pro rata basis. If the solicitation is made on behalf of persons other than the management, information shall be furnished only as to Item 1-A of the aforesaid heading of Schedule SIS.

Item 8. Bonus, Profit Sharing and Other Remuneration Plans.

If action is to be taken with respect to any bonus, profit sharing, or other remuneration plan of the insurer, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

(b) The amounts which would have been distributable under the plan during the last calendar year to (1) each person named in response to Item 7 of this schedule, (2) directors and officers as a group, and (3) to all other employees as a group, if the plan had been in effect.

(c) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph (b) of this item, the nature of such amendments should be specified.

Item 9. Pension and Retirement Plans.

If action is to be taken with respect to any pension or retirement plan of the insurer, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

(b) State (1) the approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid, and the estimated annual payments necessary to pay the total amount over such period, (2) the estimated annual payment to be made with respect to current services, and (3) the amount of such annual payments to be made for the benefit of (i) each person named in response to Item 7 of this schedule, (ii) directors and officers as a group, and (iii) all other employees as a group.

(c) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the insurer or materially alter the allocation of the benefits as between the groups specified in subparagraph (b)(3) of this item, the nature of such amendments should be specified.

Item 10. Options, Warrants or Rights.

If action is to be taken with respect to the granting or extension of any options, warrants or rights (all referred to herein as "warrants") to purchase securities of the insurer or any subsidiary or affiliate, other than warrants issued to all security holders on a pro rata basis, furnish the following information:

(a) The title and amount of securities called for or to be called for, the prices, expiration dates, and other material conditions upon which the warrants may be exercised, the consideration received or to be received by the insurer, subsidiary or affiliate for the granting or extension of the warrants, and the market value of the securities called for or to be called for by the warrants, as of the latest practicable date.

(b) If known, state separately the amount of securities called for or to be called for by warrants received or to be received by the following persons, naming each such person: (1) each person named in response to Item 7 of this schedule, and (2) each other person who will be entitled to acquire five per cent or more of the securities called for or to be called for by such warrants.

(c) If known, state also the total amount of securities called for or to be called for by such warrants received or to be received by all directors and officers of the insurer as a group and all other employees, without naming them.

Item 11. Authorization or Issuance of Securities.

(a) If action is to be taken with respect to the authorization or issuance of any securities of the insurer, furnish the title, amount and description of the securities to be authorized or issued.

(b) If the securities are other than additional shares of common stock of a class outstanding, furnish a brief summary of the following, if applicable: dividend, voting, liquidation, preemptive, and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity.

(c) If the securities to be authorized or issued are other than additional shares of common stock of a class outstanding, the Commissioner may require financial statements comparable to those contained in the annual report.

Item 12. Mergers, Consolidations, Acquisitions and Similar Matters.

(a) If action is to be taken with respect to a merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:

(1) The rights of appraisal or similar rights of dissenters with respect to any matters to be acted upon. Indicate any procedure required to be followed by dissenting security holders in order to perfect such rights.

(2) The material features of the plan or agreement.

(3) The business done by the company to be acquired or whose assets are being acquired.

(4) If available, the high and low sales prices for each quarterly period within two years of each class of security which will be materially affected of the insurer and of each other company involved in the merger, consolidation or acquisition.

(5) The percentage of outstanding shares which must approve the transaction before it is consummated.

(b) For each company involved in a merger, consolidation or acquisition, the following financial statements should be furnished.

(1) A comparative balance sheet as of the close of each of the last two fiscal years.

(2) A comparative statement of operating income and expenses for each of the last two fiscal years and, as a continuation of each statement, a statement of earnings per share after related taxes and cash dividends paid per share.

(3) A pro forma combined balance sheet and income and expenses statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting company.

Item 13. Reinstatement of Accounts.

If action is to be taken with respect to the restatement of any asset, capital, or surplus account of the insurer furnish the following information:

(a) State the nature of the restatement and the date as of which it is to be effective.

(b) Outline briefly the reasons for the restatement and for the selection of the particular effective date.

(c) State the name and amount of each account affected by the restatement and the effect of the restatement thereon.

Item 14. Matters Not Required to be Submitted.

If action is to be taken with respect to any matter which is not required to be submitted to a vote of security holders, state the nature of such matter, the reason for submitting it to a vote of security holders and what action is intended to be taken by the management in the event of a negative vote on the matter of the security holders.

Item 15. Amendment of Charter, By-Laws, or other Documents.

If action is to be taken with respect to any amendment of the insurer's charter, by-laws or other documents as to which information is not required above, state briefly the reasons for and general effect of such amendment and the bote needed for its approval.

Ins 42. SCHEDULE B -- INFORMATION TO BE INCLUDED IN STATEMENTS FILED BY OR ON BEHALF OF A PARTICIPANT (OTHER THAN THE INSURER) IN A PROXY SOLICITATION IN AN ELECTION CONTEST.

Item 1. Insurer.

State the name and address of the insurer.

Item 2. Identity and Background.

(a) State the following:

(1) Your name and business address.

(2) Your present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on.

(b) State the following:

(1) Your residence address.

(2) Information as to all material occupations, positions, offices or employments during the last ten years, giving starting and ending dates of each and the name, principal business and address of any business corporation or other business organization in which each such occupation, position, office or employment was carried on.

(c) State whether or not you are or have been a participant in any other proxy contest involving this insurer or other companies within the

past ten years. If so, identify the principals, the subject matter and your relationship to the parties and the outcome.

(d) State whether or not, during the past ten years, you have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. A negative answer to this paragraph need not be included in the proxy statement or other proxy soliciting material.

Item 3. Interest in Securities of the Insurer.

(a) State the amount of each class of securities of the insurer which you own beneficially, directly or indirectly.

(b) State the amount of each class of securities of the insurer which you own of record but not beneficially.

(c) State with respect to all securities of the insurer purchased or sold within the past two years, the dates of acquisition or sale and the amounts acquired or sold on each date.

(d) If any part of the purchase price or market value of any of the securities specified in paragraph (c) of this item is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such securities so state and indicate the amount of the indebtedness as of the latest practicable date. If such funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker or dealer, briefly describe the transaction, and state the names of the parties.

(e) State whether or not you are a party to any contracts, arrangements or understandings with any person with respect to any securities of the insurer, including but not limited to joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. If so, name the persons with whom such contracts, arrangements, or understandings exist and give the details thereof.

(f) State the amount of securities of the insurer owned beneficially, directly or indirectly, by each of your associates and the name and address of each such associate.

(g) State the amount of each class of securities of any parent, subsidiary or affiliate of the insurer which you own beneficially, directly or indirectly.

Item 4. Further Matters.

(a) Describe the time and circumstances under which you became a participant in the solicitation and state the nature and extent of your activities or proposed activities as a participant.

(b) Describe briefly, and where practicable state the approximate amount of, any material interest, direct or indirect, of yourself and of each of your associates in any material transactions since the beginning of the insurer's last fiscal year, or in any material proposed transactions, to which the insurer or any of its subsidiaries or affiliates was or is to be a party.

(c) State whether or not you or any of your associates have any arrangement or understanding with any person –

(1) with respect to any future employment by the insurer or its subsidiaries or affiliates; or

(2) with respect to any future transactions to which the insurer or any of its subsidiaries or affiliates will or may be a party.

If so, describe such arrangement or understanding and state the names of the parties thereto.

Item 5. Signature.

The statement shall be dated and signed in the following manner:

I certify that the statements made in this statement are true, complete, and correct, to the best of my knowledge and belief.

Date

(Signature of Participant or authorized representative)

Amended and filed February 8, 1973.

CHAPTER THREE, PART B: INS 43-49

REGULATIONS RELATING TO INSIDER TRADING OF EQUITY SECURITIES OF DOMESTIC STOCK INSURERS

Ins 43 General Application

(a) **Definitions of Certain Terms.**

(1) "Insurer" means any domestic stock insurance company (which shall include a domestic stock and mutual company as defined in Minnesota Statutes, Sections 61A.33 to 61A.36) with an equity security subject to the provisions of Minnesota Statutes, Section 60A.22 and not exempt thereunder.

(2) "Act" means Minnesota Statutes, Section 60A.22, Subdivision 2.

(3) "Officer" means a president, vice president, treasurer, actuary, secretary, controller and any other person who performs for the insurer functions corresponding to those performed by the foregoing officers.

(4) "Equity security" means any stock or similar security; or any voting trust certificate or certificate of deposit for such a security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

(5) Securities "held of record."

(A) For the purpose of determining whether the equity securities of an insurer are held of record by 100 or more persons, securities shall be deemed to be "held of record" by each person who is identified as the owner of such securities on records of security holders maintained by or on behalf of the insurer, subject to the following:

(i) In any case where the records of security holders have not been maintained in accordance with accepted practice, any additional person who would be identified as such an owner on such records if they had been maintained in accordance with accepted practice shall be included as a holder of record.

(ii) Securities identified as held of record by a corporation, a partnership, a trust whether or not the trustees are named, or other organization shall be included as so held by one person.

(iii) Securities identified as held of record by one or more persons as trustees, executors, guardians, custodians or in other fiduciary capacities with respect to a single trust, estate or account shall be included as held of record by one person.

(iv) Securities held by two or more persons as co-owners shall be included as held by one person.

(v) Each outstanding unregistered or bearer certificate shall be included as held of record by a separate person, except to the extent that the insurer can establish that, if such securities were

registered, they would be held of record, under the provisions of this regulation, by a lesser number of persons.

(vi) Securities registered in substantially similar names, where the insurer has reason to believe because of the address or other indications that such names represent the same person, may be included as held of record by one person.

(B) Notwithstanding paragraph (A) of this subsection:

(i) Securities held to the knowledge of the insurer, subject to a voting trust, deposit agreement or similar arrangement shall be included as held of record by the record holders of the voting trust certificates, certificates of deposit, receipts or similar evidences of interest in such securities; provided, however, that the insurer may rely in good faith on such information as is received in response to its request from a non-affiliated insurer of the certificates or evidences of interest.

(ii) If the insurer knows or has reason to know that the form of holding securities of record is used primarily to circumvent the provisions of the Act, the beneficial owners of such securities shall be deemed to be the record owners thereof.

(6) "Class" means all securities of an insurer which are of substantially similar character and the holders of which enjoy substantially similar rights and privileges.

(7) When used herein, the terms defined in Minn. Reg. Ins 32 shall have the meetings prescribed thereunder.

(b) **Transactions Exempted from the Operation of Clause (2) of the Act.** Any acquisition or disposition of any equity security by a director of officer of an insurer within six months prior to the date on which the Act shall first become applicable with respect to the equity securities of such insurer shall not be subject to the operation of Clause (2) of the Act.

Ins 44 Reports Under Clause (1) of the Act.

(a) **Filing of Statements.**

(1) Initial statements of beneficial ownership of equity securities required by Clause (1) of the Act shall be filed on the form specified in Minn. Reg. Ins 49(a) (Form A). Statements of changes in such beneficial ownership required by Clause (1) shall be filed on the form specified in Minn. Reg. Ins 49(b) (Form B). All such statements shall be prepared and filed in accordance with the requirements of the applicable form.

(2) Any director or officer who is required to file a statement on Form B with respect to any change in his beneficial ownership of equity securities which occurs within six months after he became a director or officer of the insurer, or within six months after the date on which the Act shall become applicable with respect to the equity securities of such insurer, shall include in the first such statement the information called for by Form B with respect to all changes in his beneficial ownership of equity securities of such insurer which occurred within six months prior to the date of the changes which requires the filing of such statement.

(3) Any person who has ceased to be a director or officer of an insurer which has equity securities with respect to which the Act applies,

or who is a director or officer of an insurer at the time it ceases to have any equity securities with respect to which the Act applies, shall file a statement on Form B with respect to any change in his beneficial ownership of equity securities of such insurer which shall occur on or after the date on which he ceased to be such director or officer or the date on which the insurer ceased to have any equity securities with respect to which the Act applies, as the case may be, if such change shall occur within six months after any change in his beneficial ownership of such securities prior to such date. The statement on Form B shall be filed within ten days after the end of the month in which the reported change in beneficial ownership occurs.

(b) **Ownership of More than 10% of an Equity Security.**

(1) In determining, for the purpose of Clause (1) of the Act, whether a person is the beneficial owner, directly or indirectly, of more than 10% of any class of any equity security, such class shall be deemed to consist of the total amount of such class outstanding, exclusive of any securities of such class held by or for the account of the insurer or a subsidiary of the insurer; except that for the purpose of determining percentage ownership of voting trust certificates or certificates of deposit for equity securities, the class of voting trust certificates or certificates of deposit shall be deemed to consist of the amount of voting trust certificates or certificates of deposit issuable with respect to the total amount of outstanding equity securities of the class which may be deposited under the voting trust agreement or deposit agreement in question, whether or not all of such outstanding securities have been so deposited. For the purpose of this section a person acting in good faith may rely on the information contained in the latest Convention Form Statement filed with the Commissioner with respect to the amount of securities of a class outstanding or in the case of voting trust certificates or certificates of deposit the amount thereof issuable.

(2) In determining for the purpose of Clause (1) of the Act whether a person is the beneficial owner, directly or indirectly, of more than 10% of any class of equity securities, such person shall be deemed to be the beneficial owner of securities of such class which such person has the right to acquire through the exercise of presently exercisable options, warrants or rights, or through the conversion of presently convertible securities. The securities subject to such options, warrants, rights or conversion privileges held by a person shall be deemed to be outstanding for the purpose of computing, in accordance with subsection (1) of this section, the percentage of outstanding securities of the class owned by such person but shall not be deemed outstanding for the purpose of computing the percentage of the class owned by any other person. This subsection shall not be construed to relieve any person of any duty to comply with Clause (1) of the Act with respect to any equity securities consisting of options, warrants, rights or convertible securities which are otherwise subject as a class to that clause of the Act.

(c) **Disclaimer of Beneficial Ownership.** Any person filing a statement may expressly declare therein that the filing of such statement shall not be construed as an admission that such person is, for the purpose of the Act, the beneficial owner of any equity securities covered by the statement.

(d) **Exemptions From Clauses (1) and (2) of the Act.**

(1) During the period of 12 months following their appointment and qualifications, securities held by the following persons shall be exempt from Clauses (1) and (2) of the Act:

(A) Executors or administrators of the estate of a decedent;

(B) Guardians or committees for an incompetent; and

(C) Receivers, trustees in bankruptcy, assignees for the benefit of creditors, conservators, liquidating agents, and other similar persons duly authorized by law to administer the estate or assets of other persons.

(2) After the 12-month period following their appointment or qualification, the foregoing persons shall be required to file reports with respect to the securities held by the estates which they administer under Clause (1) of the Act and shall be liable for profits realized from trading in such securities pursuant to Clause (2) of the Act only when the estate being administered as a beneficial owner of more than 10% of any class of equity security (other than an otherwise exempted security) of an insurer subject to the Act.

(3) Securities reacquired by or for the account of an insurer and held by it for its account shall be exempt from Clauses (1) and (2) of the Act during the time they are held by the insurer.

(e) **Exemption From the Act of Securities Purchased or Sold by Odd Lot Dealers.** Securities purchased or sold by an odd-lot dealer (1) in odd lots so far as reasonably necessary to carry on odd-lot transactions, or (2) in round lots to offset odd-lot transactions previously or simultaneously executed or reasonably anticipated in the usual course of business, shall be exempt from the provisions of the Act with respect to participation by such odd-lot dealer in such transactions.

(f) **Certain Transactions Subject to Clause (1) of the Act.**

(1) The granting, acquisition, or disposition of any presently exercisable put, call, option, or other right or obligation to buy securities from, or sell securities to, another person, or any expiration or cancellation thereof, shall be deemed to effect such a change in the beneficial ownership of the securities to which the right or obligation relates as to require the filing of a statement pursuant to Clause (1) of the Act reflecting such change in beneficial ownership.

Note: 1. If any such right or obligation is not initially exercisable, the granting and acquisition thereof shall be reported in a statement filed for the month in which it became exercisable, unless the filing of such statement is otherwise not required.

2. The right of a pledgee or borrower of securities to sell the pledged or borrowed securities is not an option or right to sell securities within the meaning of this section. However, the sale of the pledged or borrowed securities by the pledgee or borrower shall be reported by the pledgor or lender.

3. The right to acquire securities, or the obligation to dispose of securities, in connection with a merger or consolidation involving the insurer issuing the securities is not a right or obligation to buy or sell securities within the meaning of this section.

(2) For the purpose of Clause (1) of the Act both the grantor and the holder of any presently exercisable put, call, option, or other right or obligation to buy or sell securities shall be deemed to be beneficial

owners of the securities subject to such right or obligation until it is exercised or cancelled or expires.

(3) Notwithstanding the foregoing, a statement need not be filed pursuant to Clause (1) of the Act by (A) any person with respect to the acquisition, expiration, or cancellation of any non-transferable qualified, restricted, or other stock option granted by the insurer issuing the securities to which the option relates pursuant to a plan provided for the benefit of its employees or the employees of its affiliates if such plan meets the condition specified in Minn. Reg. Ins 45(b), or (B) any insurer with respect to any put, call, option, or other right or obligation to buy or sell securities of which it is the issuer.

Note: An option, otherwise non-transferable, is deemed to be non-transferable even though it may be disposed of by will or by descent and distribution upon the death of the holder.

(4) Nothing in this section shall be deemed to exempt any person from the duty to file the statements required upon the exercise of any put, call, option or other right or obligation to buy or sell securities.

(g) **Ownership of Securities Held in Trust.**

(1) Beneficial ownership of a security for the purpose of Clause (1) of the Act shall include:

(A) The ownership of securities as a trustee where either the trustee or members of his immediate family have a vested interest in the income or corpus of the trust;

(B) The ownership of a vested beneficial interest in a trust; and

(C) The ownership of securities as a settlor of a trust in which the settlor has the power to revoke the trust without obtaining the consent of all the beneficiaries.

(2) Except as provided in subsection (3) hereof, beneficial ownership of securities solely as a settlor or beneficiary of a trust shall be exempt from the provisions of Clause (1) of the Act where less than 20% in market value of the securities having a readily ascertainable market value held by such trust, determined as of the end of the preceding fiscal year of the trust, consists of equity securities with respect to which reports would otherwise be required. Exemption is likewise accorded from Clause (1) of the Act with respect to any obligation which would otherwise be imposed solely by reason of ownership as settlor or beneficiary of securities held in trust, where the ownership, acquisition or disposition of such securities by the trust is made without prior approval by the settlor or beneficiary. No exemption pursuant to this subsection shall, however, be acquired or lost solely as a result of changes in the value of the trust assets during any fiscal year or during any time when there is no transaction by the trust in the securities otherwise subject to the reporting requirements of Clause (1) of the Act.

(3) In the event that 10% of any class of any equity security (other than an exempted security) of an insurer subject to the Act is held in a trust, that trust and the trustees thereof as such shall be deemed a person required to file the reports specified in Clause (1) of the Act.

(4) Not more than one report need be filed to report any holdings or with respect to any transactions in securities held by a trust,

regardless of the number of officers, directors or 10% stockholders who are either trustees, settlors or beneficiaries of a trust, provided that the report filed shall disclose the names of all trustees, settlors, and beneficiaries who are officers, directors or 10% stockholders. A person having an interest only as a beneficiary of a trust shall not be required to file any such report so long as he relies in good faith upon an understanding that the trustee of such trust will file whatever reports might otherwise be required of such beneficiary.

(5) As used in this section the "immediate family" of a trustee means:

(A) A son or daughter of the trustee, or a descendant of either;

(B) A stepson or stepdaughter of the trustee;

(C) The father or mother of the trustee, or an ancestor of either;

(D) A stepfather or stepmother of the trustee;

(E) A spouse of the trustee.

For the purpose of determining whether any of the foregoing relations exists, a legally adopted child of a person shall be considered a child of such person by blood.

(6) In determining, for the purposes of Clause (1) of the Act, whether a person is the beneficial owner, directly or indirectly, of more than 10% of any class of any equity security, the interest of such person in the remainder of a trust shall be excluded from the computation.

(7) No report shall be required by any person, whether or not otherwise subject to the requirement of filing reports under Clause (1) of the Act, with respect to his indirect interest in portfolio securities held by:

(A) A pension or retirement plan holding securities of an insurer whose employees generally are the beneficiaries of the plan;

(B) A business trust with over 25 beneficiaries.

(8) Nothing in this section shall be deemed to impose any duties or liabilities with respect to reporting any transaction or holding prior to its effective date.

(h) **Exemption for Small Transactions.**

(1) Any acquisition of securities shall be exempt from Clause (1) of the Act where:

(A) The person effecting the acquisition does not within six months thereafter effect any disposition, otherwise than by way of gift, of securities of the same class; and

(B) The person effecting such acquisition does not participate in acquisitions or in dispositions of securities of the same class having a total market value in excess of $3,000 for any six months period during which the acquisition occurs.

(2) Any acquisition or disposition of securities by way of gift, where the total amount of such gifts does not exceed $3,000 in market

value for any six months period, shall be exempt from Clause (1) of the Act and may be excluded from the computations prescribed in paragraph (1) (B) of this section.

(3) Any person exempted by subsection (1) or (2) of this section shall include in the first report filed by him after a transaction within the exemption a statement showing his acquisitions and dispositions for each six months period or portion thereof which has elapsed since his last filing.

(i) **Exemption From Clause (2) of the Act of Transactions Which Need Not Be Reported Under Clause (1) of the Act.** Any transaction which has been or shall be exempted from the requirements of Clause (1) of the Act shall, insofar as it is otherwise subject to the provisions of Clause (2) of the Act, be likewise exempted from Clause (2) of the Act.

Ins 45 Exemptions under Clause (2) of the Act.

(a) **Exemption From Clause (2) of the Act of Certain Transactions Effected in Connection with a Distribution.**

(1) Any transaction of purchase and sale, or sale and purchase, of a security which is effected in connection with the distribution of a substantial block of securities shall be exempt from the provisions of Clause (2) of the Act, to the extent specified in this section as not comprehended within the purpose of said clause of the Act, upon the following conditions:

(A). The person effecting the transaction is engaged in the business of distributing securities and is participating in good faith, in the ordinary course of such business, in the distribution of such block of securities;

(B) The security involved in the transaction is (i) a part of such block of securities and is acquired by the person effecting the transaction, with a view to the distribution thereof, from the insurer or other person on whose behalf such securities are being distributed or from a person who is participating in good faith in the distribution of such block of securities, or (ii) a security purchased in good faith by or for the account of the person effecting the transaction for the purpose of stabilizing the market price of securities of the class being distributed or to cover an over-allotment or other short position created in connection with such distribution; and

(C) Other persons not within the purview of Clause (2) of the Act are participating in the distribution of such block of securities on terms at least as favorable as those on which such person is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of Clause (2) of the Act by this section. However, the performance of the functions of manager of a distributing group and the receipt for a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this section.

(2) The exemption of a transaction pursuant to this section with respect to the participation therein of one party thereto shall not render such transaction exempt with respect to participation of any other party therein unless such other party also meets the conditions of this section.

(b) **Exemption from Clause (2) of the Act of Acquisitions of Share of Stock and Stock Options under Certain Stock Bonus, Stock Option or Similar Plans.** Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant or right) pursuant to a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan, or any acquisition of a qualified or a restricted stock option pursuant to a qualified or a restricted stock option plan, or a stock option pursuant to an employee stock purchase plan, by a director or officer of an insurer issuing such stock or stock option shall be exempt from the operation of Clause (2) of the Act if the plan meets the following conditions.

(1) The plan has been approved, directly or indirectly, (A) by the affirmative votes of the holders of a majority of the securities of such insurer present, or represented, and entitled to vote at a meeting duly held in accordance with the applicable laws of the State of Minnesota, or (B) by the written consent of the holders of a majority of the securities of such insurer entitled to vote; provided, however, that if such vote or written consent was not solicited substantially in accordance with the proxy rules and regulations, if any, prescribed by the Commissioner in effect at the time of such vote or written consent, the insurer shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan which would be required by any such rules and regulations so prescribed and in effect at the time such information is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of (i) the date the Act first applies to such insurer, or (ii) the acquisition of an equity security for which exemption is claimed. Such written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of mailing. Two copies of such written information shall be filed with, or mailed for filing to, the Commissioner not later than the date on which it is first sent or given to security holders of the insurer. For the purposes of the subsection, the term "insurer" includes a predecessor corporation if the plan or obligations to participate thereunder were assumed by the insurer in connection with the succession.

(2) If the selection of any director or officer of the insurer to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan, or the determination of the number or maximum number of shares of stock which may be allocated to any such director or officer or which may be covered by qualified, restricted or employee stock purchase plan stock options granted to any such director or officer, is subject to the discretion of any person, then such discretion shall be exercised only as follows:

(A) With respect to the participation of directors:

(i) By the board of directors of the insurer, a majority of which board and a majority of the directors acting in the matter are disinterested persons;

(ii) By, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or

(iii) Otherwise in accordance with the plan, if the plan (aa) specifies the number of maximum number of shares of stock which directors may acquire or which may be subject to qualified, restricted

or employee stock purchase plan stock options granted to directors and the terms upon which, and the times at which, or the periods within which, such stock may be acquired or such options may be acquired and exercised; or (bb) sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors.

(B) With respect to the participation of officers who are not directors:

(i) By the board of directors of the insurer or a committee of three or more directors; or

(ii) By, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons.

For the purpose of this subsection, a director or committee member shall be deemed to be a disinterested person only if such person is not at the time such discretion is exercised eligible and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan or any other plan of the insurer or any of its affiliates entitling the participants therein to acquire stock or qualified, restricted or employee stock purchase plan stock options of the insurer or any of its affiliates.

(C) The provisions of this subsection shall not apply with respect to any option granted, or other equity security acquired, prior to the date that Clause (1), (2), and (3) of the Act became applicable with respect to any class of equity securities of any insurer.

(3) As to each participant or as to all participants the plan effectively limits the aggregate dollar amount or the aggregate number of shares ot stock which may be allocated, or which may be subject to qualified, restricted or employee stock purchase plan stock options granted, pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date; and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provisions for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

(4) Unless the context otherwise requires, all terms used in this section shall have the same meaning as in the Act and in Minn. Reg. Ins 43(a). In addition, the following definitions apply:

(A) The term "plan" includes any plan, whether or not set forth in any formal written document or documents and whether or not approved in its entirety at one time.

(B) The definition of the terms "qualified stock option" and "employee stock purchase plan" that are set forth in Sections 422 and

423 of the Internal Revenue Code of 1954, as amended, are to be applied to those terms where used in this section. The term "restricted stock option" as defined in Section 424(b) of the Internal Revenue Code of 1954, as amended, shall be applied to that term as used in this section; provided however, that for the purposes of this section an option which meets all of the conditions of that section, other than the date of issuance shall be deemed to be a "restricted stock option."

(C) The term "exercise of an option, warrant or right" contained in the parenthetical clause of the first paragraph of this section shall not include (i) the making of any election to receive under any plan compensation in the form of stock or credits therefor, provided that such election is made either prior to the making of the award or prior to the fulfillment of all conditions to the receipt of the compensation and provided further that such election is irrevocable until at least six months after termination of employment; (ii) the subsequent crediting of such stock; (iii) the making of any election as to a time for delivery of such stock after termination of employment, provided that such election is made at least six months prior to any such delivery; (iv) the fulfillment of any condition to the absolute right to receive such stock; or (v) the acceptance of certificates for shares of such stock.

(c) **Exemption From Clause (2) of the Act of Certain Transactions in Which Securities are Received by Redeeming Other Securities.** Any acquisition of an equity security (other than a convertible security or right to purchase a security) by a director or officer of the insurer issuing such security shall be exempt from the operation of Clause (2) of the Act upon condition that:

(1) The equity security is acquired by way of redemption of another security of an insurer substantially all of whose assets other than cash (or Government bonds) consist of securities of the insurer issuing the equity security so acquired, and which:

(A) Represented substantially and in practical effect a stated or readily ascertainable amount of such equity security;

(B) Had a value which was substantially determined by the value of such equity security; and

(C) Conferred upon the holder the right to receive such equity security without the payment of any consideration other than the security redeemed;

(2) No security of the same class as the security redeemed was acquired by the director or officer within six months prior to such redemption or is acquired within six months after such redemption;

(3) The insurer issuing the equity security acquired has recognized the applicability of subsection (1) of this section by appropriate corporate action.

(d) **Exemption of Long Term Profits Incident to Sales Within Six Months of the Exercise of an Option.**

(1) To the extent specified in subsection (2) of this section, the Commissioner hereby exempts as not comprehended within the purposes of Clause (2) of the Act any transaction or transactions involving the purchase and sale, or sale and purchase, of any equity security where such purchase is pursuant to the exercise of an option or similar right either

(A) acquired more than six months before its exercise, or (B) acquired pursuant to the terms of an employment contract entered into more than six months before its exercise.

(2) In respect of transactions specified in subsection (1) of this section the profits inuring to the insurer shall not exceed the difference between the proceeds of sale and the lowest market price of any security of the same class within six months before or after the date of sale. Nothing in this section shall be deemed to enlarge the amount of profit which would inure to such insurer in the absence of this section.

(3) The Commissioner also hereby exempts, as not comprehended within the purposes of Clause (2) of the Act, the disposition of a security, purchased in a transaction specified in subsection (1) of this section, pursuant to a plan or agreement for merger or consolidation, or reclassification of the insurer's securities, or for the exchange of its securities for the securities of another person which has acquired its assets, or which is in control, as defined in Section 368(c) of the Internal Revenue Code of 1954, as amended, of a person which has acquired its assets, where the terms of such plan or agreement are binding upon all stockholders of the insurer except to the extent that dissenting stockholders may be entitled, under statutory provisions or provisions contained in the certificate of incorporation, to receive the appraised or fair value of their holdings.

(4) The exemptions provided by this section shall not apply to any transactions made unlawful by Clause (3) of the Act or by any rules and regulations thereunder.

(5) The burden of establishing market price of a security for the purpose of this section shall rest upon the person claiming the exemption.

(e) **Exemption From Clause (2) of the Act of Certain Acquisitions and Dispositions of Securities Pursuant to Mergers or Consolidations.**

(1) The following transactions shall be exempt from the provisions of Clause (2) of the Act as not comprehended within the purposes of said clause:

(A) The acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, owned 85% or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company.

(B) The disposition of a security, pursuant to a merger or consolidation of an insurer which, prior to said merger or consolidation, owned 85% or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company.

(C) The acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, held over 85% of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to the merger or consolidation as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

(D) The disposition of a security, pursuant to a merger or consolidation, of an insurer which, prior to said merger or consolidation,

held over 85% of the combined assets of all the companies undergoing merger or consolidation as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

(2) A merger within the meaning of this section shall include the sale or purchase of substantially all the assets of one insurer by another in exchange for stock which is then distributed to the security holders of the insurer which sold its assets.

(3) Notwithstanding the foregoing, if an officer, director, or stockholder shall make any purchase (other than a purchase exempted by this section) of a security in any company involved in the merger or consolidation and any sale (other than a sale exempted by this section) of a security in any other company involved in the merger or consolidation within any period of less than six months during which the merger or consolidation took place, the exemption provided by this section shall be unavailable to such officer, director or stockholder to the extent of such purchase and sale.

(f) **Exemption from Clause (2) of the Act of Transactions Involving the Deposit or Withdrawal of Equity Securities under a Voting Trust or Deposit Agreement.** Any acquisition or disposition of an equity security involved in the deposit of such security under, or the withdrawal of such security from, a voting trust or deposit agreement, and the acquisition or disposition in connection therewith of the certificate representing such security, shall be exempt from the operation of Clause (2) of the Act if substantially all of the assets held under the voting trust or deposit agreement immediately after the deposit or immediately prior to the withdrawal, as the case may be, consisted of equity securities of the same class as the security deposited or withdrawn; provided, however, that this section shall not apply to the extent that there shall have been either (1) a purchase of an equity security of the class deposited and a sale of any certificate representing an equity security of such class, or (2) a sale of an equity security of the class deposited and a purchase of any certificate representing an equity security of such class (otherwise than in a transaction involved in such deposit or withdrawal or in a transaction exempted by any other provision of the regulations under Clause (2) of the Act) within a period of less than six months which includes the date of the deposit or withdrawal.

(g) **Exemption From Clause (2) of the Act of Certain Transactions Involving the Conversion of Equity Securities.**

(1) Any acquisition or disposition of an equity security involved in the conversion of an equity security which, by its terms or pursuant to the terms of the insurer's charter or other governing instruments, is convertible immediately or after a stated period of time into another equity security of the same insurer, shall be exempt from the operation of Clause (2) of the Act; provided, however, that this section shall not apply to the extent that there shall have been either (A) a purchase of any equity security of the class convertible (including any acquisition of or change in a conversion privilege) and a sale of any equity security of the class issuable upon conversion, or (B) a sale of any equity security of the class convertible and any purchase of any equity security issuable upon conversion (otherwise than in a transaction involved in such conversion or in a transaction exempted by any other provision of the regulations under Clause (2) of the Act) within a period of less than six months which includes the date of conversion.

(2) For the purpose of this section, an equity security shall not be deemed to be acquired or disposed of upon conversion of an equity security if the terms of the equity security converted require the payment or entail the receipt, in connection with such conversion, of cash or other property (other than equity securities involved in the conversion) equal in value at the time of conversion to more than 15% of the value of the equity security issued upon conversion.

(3) For the purpose of this section, an equity security shall be deemed convertible if it is convertible at the option of the holder or of some other person or by operation of the terms of the security or the governing instruments.

(h) **Exemption From Clause (2) of the Act of Certain Transactions Involving the Sale of Subscription Rights.**

(1) Any sale of a subscription right to acquire any subject security of the same insurer shall be exempt from the provisions of Clause (2) of the Act, to the extent prescribed in this section, as not comprehended with the purposes of Clause (2) of the Act, if:

(A) Such subscription right is acquired, directly or indirectly, from the insurer without the payment of consideration;

(B) Such subscription right by its terms expires within 45 days after the issuance thereof;

(C) Such subscription right by its terms is issued on a pro rata basis to all holders of the subject security of the insurer; and

(D) A registration statement under the Securities Act of 1933 is in effect as to each subject security, or the applicable terms of any exemption from such registration have been met in respect to each subject security.

(2) When used within this section the following terms shall have the meanings indicated:

(A) The term "subscription right" means any warrant or certificate evidencing a right to subscribe to or otherwise acquire an equity security;

(B) The term "subject security" means a security which is the subject of a subscription right.

(3) Notwithstanding anything contained herein to the contrary, if a person purchases subscription rights for cash or other consideration, then a sale by such person of subscription rights otherwise exempted by this section will not be so exempted to the extent of such purchases within the six-month period preceding or following such sale.

Ins 46 Exemptions From Clause (3) of the Act.

(a) **Exemption of Certain Securities from Clause (3) of the Act.** Any security shall be exempt from the operation of Clause (3) of the Act to the extent necessary to render lawful under such clause the execution by a broker of an order for an account in which he has no direct or indirect interest.

(b) **Exemption From Clause (3) of the Act of Certain Transactions Effected in Connection with a Distribution.** Any security shall be exempt

from the operation of Clause (3) of the Act to the extent necessary to render lawful under such clause any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of securities, upon the following conditions:

(1) The sale is represented by an over-allotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on his behalf intends in good faith to offset such sale with a security to be acquired by or on behalf of the dealer as a participant in an underwriting, selling or soliciting-dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to a prior offering to existing security holders or some other class of persons; and

(2) Other persons not within the purview of Clause (3) of the Act are participating in the distribution of such block of securities on terms at least as favorable as those on which such dealer is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of Clause (3) of the Act by this section. However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this section.

(c) **Exemption From Clause (3) of the Act of Sales of Securities to be Acquired.**

(1) Whenever any person is entitled, as an incident to his ownership of an issued security and without the payment of consideration, to receive another security "when issued" or "when distributed," the security to be acquired shall be exempt from the operation of Clause (3) of the Act, provided that:

(A) The sale is made subject to the same conditions as those attaching to the right of acquisition; and

(B) Such person exercises reasonable diligence to deliver such security to the purchaser promptly after his right of acquisition matures; and

(C) Such person reports the sale on the appropriate form for reporting transactions by persons subject to Clause (1) of the Act.

(2) This section shall not be construed as exempting transactions involving both a sale of a security "when issued" or "when distributed" and a sale of the security by virture of which the seller expects to receive the "when-issued" or "when-distributed" security, if the two transactions combined result in a sale of more units than the aggregate of those owned by the seller plus those to be received by him pursuant to his right of acquisition.

Ins 47 Arbitrage Transactions Under Clause (5) of the Act. It shall be unlawful for any director or officer of an insurer to effect any foreign or domestic arbitrage transaction in any equity security of such insurer, unless he shall include such transaction in the statements required by Clause (1) of the Act and shall account to such insurer for the profits arising from such transaction, as provided in Clause (2) of the Act. The provisions of Clause (3) of the Act shall not apply to such arbitrage transactions. The provisions of the Act shall not apply to any bona fide foreign or domestic arbitrage transaction insofar as it is effected by any person other than such director or officer of the insurer.

Ins 48 Effective Date and Severability. These regulations shall become effective on April 1, 1973. If any provision or clause of these regulations or the application thereof to any person or situation is held invalid or disapproved by the Attorney General, such validity or disapproval shall not affect any other provision or application of these regulations which can be given effect without the invalid or disapproved provision or application, and to this end the provisions of these regulations are declared to be severable.

Ins 49 Forms of Statement.

(a) **Form A:**

INITIAL STATEMENT OF
BENEFICIAL OWNERSHIP OF EQUITY SECURITIES

(File with Respect to Domestic Stock Insurer
Pursuant to Minnesota Statutes, Section 60A.22)

Name of Insurer:

Address:

Name of Person Whose
Ownership is Reported:

Address:

Relationship of Such
Person to Insurer
(See Instruction 4):

Date Indicated
Relationship
Occurred:

EQUITY SECURITIES BENEFICIALLY OWNED

Title of Security (See Instruction 5)	Nature of Ownership (See Instruction 6)	Amount Beneficially Owned (See Instruction 7)

Remarks (See Instruction 8):

Date of Statement:

I affirm under penalty of perjury that the foregoing is full, true, and correct.

Where Made:

_____
(Signature)

INSTRUCTIONS (Form A)

1. **Persons Required to File Statements.** A statement on this form is required to be filed by every person who is directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a Minnesota domestic stock insurance company, including a domestic stock and mutual insurance company as defined in Minnesota Statutes, Section 61A.33 to 61A.38 (but not including a company if any equity security thereof is registered, or required to be registered, pursuant to Section 12 of the federal Securities Exchange Act of 1934, or if the company does not have equity securities held of record by 100 or more persons on the last day of the year next preceding the year in which this statement would otherwise be required to be filed), or who is a director or an officer of such company. The term "officer" means a President, Vice-President, Treasurer, Actuary, Secretary, Controller and any other person who performs for the insurer functions corresponding to those performed by the foregoing officers. A separate statement shall be filed with respect to the equity securities of each insurer.

2. **When Statements Are to Be Filed.** Persons who hold any of the relationships specified in Instruction 1 are required to file a statement on this form within 10 days after assuming such relationship.

3. **Where Statements Are to Be Filed.** One signed copy of each statement shall be filed with the Commissioner of Insurance, State of Minnesota, State Office Building, St. Paul, Minnesota 55155.

4. **Relationship of Reporting Person to Insurer.** Indicate clearly the relationship of the reporting person to the insurer; for example, "Director", "Director and Vice-President", "Beneficial owner of more than 10% of the insurer's common stock".

5. **Title of Security.** Clearly identify the equity security, even though there is only one class; for example, "Common Stock", "Classs A Common Stock", "4% Convertible Preferred Stock". Persons required to file the statement with respect to any class of equity security of the insurer shall include information as to their beneficial ownership of all classes of equity securities of the insurer.

6. **Nature of Ownership.** Under "Nature of Ownership" state whether ownership of the equity securities is "direct" or "indirect". If the ownership is indirect, i.e., through a partnership, corporation, trust or other entity, indicate in a footnote or other appropriate manner the name or identity of the medium through which the stock is indirectly owned. The fact that securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Equity securities owned indirectly shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership.

7. **Amount Beneficially Owned.** In the case of equity securities owned indirectly, the entire amount of equity securities owned by the partnership, corporation, trust or other entity shall be stated. If desired, the person filing the statement may also indicate in a footnote or other appropriate manner the extent of his interest in the partnership corporation, trust or other entity. If desired, the person filing the statement may declare that the filing of the statement shall not be construed as an admission that such person is, for the purposes of Minnesota Statutes, Section 60A.22, the beneficial owner of any equity securities covered by the statement.

8. **Inclusion of Additional Information.** A statement may include any additional information or explanation deemed relevant by the person filing the statement.

9. **Signature.** If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or specifically on his behalf by a person authorized to sign for him.

(b) Form B:

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF EQUITY SECURITIES
(Filed with Respect to Domestic Stock Insurer Pursuant to Minnesota Statutes, Section 60A.22)

Name of Insurer:

Address:

Name of Person Whose Ownership is Reported:

Address:

Relationship of Such Person to Insurer (See Instruction 4):

Statement for Calendar Month of _____ , 197__.

CHANGES DURING MONTH, AND MONTH-END OWNERSHIP (See Instruction 5)

Title of Security (See Instruction 6)	Date of Transaction (See Instruction 7)	Amount Bought or Otherwise Acquired	Amount Sold or Otherwise Disposed of	Amount Owned at End of Month	Nature of Ownership (See Instruction 9)
		(See Instruction 8)			

Remarks (See Instructions 10 and 11):

Date of Statement:

Where Made:

I affirm under penalty of perjury that the foregoing is full, true, and correct.

_____
(Signature)

INSTRUCTIONS (Form B)

1. **Persons Required to File Statements.** A statement on this form is required to be filed by every person who at any time during any calendar month was directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a Minnesota domestic stock insurance company, including a domestic stock and mutual insurance company as defined in Minnesota Statutes, Section 61A.33 to 61A.38 (but not including a company if any equity security thereof is registered, or required to be registered, pursuant to Section 12 of the federal Securities Exchange Act of 1934, or if the company does not have equity securities held of record by 100 or more persons on the last day of the year next preceding the year in which this statement would otherwise be required to be filed), or who was a director or an officer of such company, and who during such month had any change in the nature or amount of his beneficial ownership of any class of equity securities of such company. The term "officer" means a President, Vice-President, Treasurer, Actuary, Secretary, Controller and any other person who performs for the insurer functions corresponding to those performed by the foregoing officers. A separate statement shall be filed with respect to the equity securities of each insurer.

2. **When Statements Are to Be Filed.** Statements are required to be filed on or before the 10th day after the end of each calendar month in which any change in the nature or amount of beneficial ownership has occurred.

3. **Where Statements Are to Be Filed.** One signed copy of each statement shall be filed with the Commissioner of Insurance, State Office Building, St. Paul, Minnesota 55155.

4. **Relationship of Reporting Person to Insurer.** Indicate clearly the relationship of the reporting person to the insurer; for example, "Director", "Director and Vice-President", "Beneficial owner of more than 10% of the insurer's common stock".

5. **Transactions and Holdings to be Reported.** Every change in beneficial ownership shall be reported even though purchases and sales during the month are equal or the change involves only the nature of beneficial ownership (for example, from direct to indirect ownership or from one type of indirect ownership to another). Persons required to file the statement with respect to any class of equity security of the insurer shall include information as to changes in their beneficial ownership of all classes of equity securities of the insurer and shall show their beneficial ownership at the end of the month of all classes of equity securities of the insurer even though there has been no reportable change during the month in the ownership of equity securities of a particular class.

6. **Title of Security.** Clearly identify the equity security, even though there is only one class; for example, "Common Stock", "Class A Common Stock", "4% Convertible Preferred Stock".

7. **Date of Transaction.** The exact date (month, date, and year) of each transaction shall be stated opposite the amount involved in the transaction.

8. **Amounts of Equity Securities.** In the case of equity securities owned indirectly, the entire amount of equity securities owned by the partnership, corporation, trust or other entity shall be stated. If desired, the person filing the statement may also indicate in a footnote or other appropriate manner the extent of his interest in the partnership, corporation, trust or other entity. If desired, the person filing the statement may declare that the filing of the statement shall not be construed as an admission that such person is,

for the purposes of Minnesota Statutes, Section 60A.22, the beneficial owner of any equity securities covered by the statement.

9. **Nature of Ownership.** Under "Nature of Ownership" state whether ownership of the equity securities is "direct" or "indirect". If the ownership is indirect, i.e., through a partnership, corporation, trust or other entity, indicate in a footnote or other appropriate manner the name or identity of the medium through which the stock is indirectly owned. The fact that securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Equity securities owned indirect shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership.

10. **Character of Transaction.** If the transaction in equity securities was with the insurer or one of its subsidiaries, so state. If it involved the purchase of equity securities through the exercise of options, so state. If any other purchase or sale was effected otherwise than in the open market, that fact shall be indicated. If the transaction was not a purchase or sale, indicate its character; for example, gift or stock dividend, etc., as the case may be. The foregoing information may be appropriately set forth in the table or under "Remarks" below the table.

11. **Inclusion of Additional Information.** A statement may include any additional information or explanation deemed relevant by the person filing the statement.

12. **Signature.** If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or specifically on his behalf by a person authorized to sign for him.

Filed February 8, 1973.

CHAPTER FOUR: INS 50-69
RULES GOVERNING ADVERTISEMENTS OF ACCIDENT AND SICKNESS INSURANCE

Ins 50 Statement of Purpose. The purpose of the rules set forth in this regulation is to formalize standards pursuant to law, to be followed by insurers to avoid misleading and deceptive advertising in the accident and sickness insurance business. The proper promotion, sale and expansion of accident and sickness insurance is in the public interest, and these rules are to be construed in such a manner as not to restrict, inhibit or retard such promotion, sale and expansion. In connection with the interpretation and application of these rules it is to be recognized that:

(a) Advertising plays an essential part in promoting a broader distribution of accident and sickness insurance. Advertising necessarily seeks to serve this purpose in various ways. Some such advertising is directed toward inviting an offer to contract or otherwise effecting a sale without opportunity for additional explanation of the coverages advertised. Other advertising serves its purpose by outlining one or more of the basic coverages available and inviting inquiry for details. There ary also significant differences between group and individual accident and sickness insurance and the manner in which each is advertised. These rules are not intended to change the essential purpose of accident and sickness advertising or to limit the ways and means by which such advertising may properly seek to serve its purpose; they are intended to prevent advertising which tends to mislead or deceive.

(b) The disclosure of policy provisions required in advertising should have a reasonable relationship to the content, detail, character, purpose and use of the advertisement and the nature of the exceptions, reductions, limitations and other qualifications involved. If an advertisement clearly and prominently indicates that its disclosure of exceptions, reductions, limitations or other qualifications is incomplete and that complete details are available, the advertisement is not improper per se. The test, in every case, is whether the advertisement does, or does not, have the tendency and capacity to mislead or deceive.

(c) The policy of this Department, in interpreting the meaning of these rules when applied to a specific advertisement, will be to take into consideration the content, detail, character, purpose and use of the advertisement, and specifically, whether the advertisement is the direct or principal sales inducement, or whether its function is to invite inquiry for details of the insurance advertised, either by follow-up literature or by personal interview.

(d) The foregoing shall be applicable to each and every provision of the following rules and the explanations thereof.

Ins 51 Definitions

(a) An advertisement for the purpose of these rules shall include:

(1) printed and published material and descriptive literature of an insurer used in newspapers, magazines, radio and TV scripts, billboards and similar displays; and

(2) descriptive literature and sales aids of all kinds issued by an insurer for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and

(3) prepared sales talks, presentations and material for use by agents and solicitors and representations made by agents and solicitors in accordance therewith.

(b) **Policy** for the purpose of these rules shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides accident or sickness benefits or medical, surgical or hospital expense benefits, whether on a cash indemnity, reimbursement, or service basis, except when issued in connection with another kind of insurance other than life and except disability and double indemnity benefits included in life insurance and annuity contracts.

(c) **Insurer** for the purpose of these rules shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, and any other legal entity engaged in the advertisement of a policy as herein defined.

(d) These rules shall also apply to agents to the extent that they are responsible for the advertisement.

Ins 52 Advertisements in General. Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology shall not be used.

Ins 53 Advertisements of Benefits Payable, Losses Covered or Premiums Payable

(a) Deceptive words, phrases or illustrations. Words, phrases or illustrations shall not be used in a manner which misleads or has the capacity and tendency to deceive as to the extent of any policy benefit payable, loss covered or premium payable. An advertisement relating to any policy benefit payable, loss covered or premium payable shall be sufficiently complete and clear as to avoid deception or the capacity and tendency to deceive.

Explanation:

(1) The words and phrases "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will pay your hospital and surgical bills" or "this policy will replace your income," or similar words and phrases shall not be used so as to exaggerate any benefit beyond the terms of the policy, but may be used only in such manner as fairly to describe such benefit.

(2) A policy covering only one disease or a list of specified diseases shall not be advertised so as to imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

(3) The benefits of a policy which pays varying amounts for the same loss occurring under different conditions or which pays benefits only when a loss occurs under certain conditions shall not be advertised without disclosing the limited conditions under which the benefits referred to are provided by the policy.

(4) Phrases such as "this policy pays $1,800 for hospital room and board expenses" are incomplete without indicating the maximum daily benefit and the maximum time limit for hospital room and board expenses.

(b) Exceptions, Reductions and Limitations. When an advertisement refers to any dollar amount, period of time for which any benefit is payable, cost of policy, or specific policy benefit or the loss for which such benefit is payable, it shall also disclose those exceptions, reductions, and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity and tendency to mislead or deceive.

Explanation:

(1) The term "exception" shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

(2) The term "reduction" shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction clause not been used.

(3) The term "limitation" shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

(4) Waiting, elimination, probationary or similar periods. When a policy contains a time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement covered by Ins 53 (b) shall disclose the existence of such periods.

(5) Pre-existing conditions.

(aa) An advertisement covered by Ins 53 (b) shall disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy.

(bb) When a policy does not cover losses traceable to preexisting conditions no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This limits the use of the phrase "no medical examination required" and phrases of similar import.

Ins 54 Necessity for Disclosing Policy Provision Relating to Renewability, Cancellability and Termination. An advertisement which refers to renewability, cancellability, or termination of a policy, or which refers to a policy benefit, or which states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, shall disclose the provisions relating to renewability, cancellability, and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which shall not minimize or render obscure the qualifying conditions.

Ins 55 Method of Disclosure of Required Information. All information required to be disclosed by these rules shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be

minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

Ins 56 Testimonials. Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial makes as its own all of the statements contained therein, and the advertisement including such statements is subject to all of the provisions of these rules.

Ins 57 Use of Statistics. An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not be used unless it accurately reflects all of the relevant facts. Such an advertisement shall not imply that such statistics are derived from the policy advertised unless such is the fact.

Ins 58 Inspection of Policy. An offer in an advertisement of free inspection of a policy or offer of a premium refund is not a cure for misleading or deceptive statements contained in such advertisement.

Ins 59 Identification of Plan or Number of Policies

(a) When a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits.

(b) When an advertisement refers to various benefits which may be contained in two or more policies, other than group master policies, the advertisement shall disclose that such benefits are provided only through a combination of such policies.

Ins 60 Disparaging Comparisons and Statements. An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or otherwise falsely disparage competitors, their policies, services or business methods.

Ins 61 Jurisdictional Licensing

(a) An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

(b) Such advertisements by only direct mail insurers shall indicate that the insurer is licensed in a specified state or states, or is not licensed in a specified state or states, by use of some language such as "This company is licensed in State A" or "This company is not licensed in State B."

Ins 62 Identity of Insurer. The identity of the insurer shall be made clear in all of its advertisements. An advertisement shall not use a trade name, service mark, slogan, symbol or other device which has the capacity and tendency to mislead or deceive as to the true identity of the insurer.

Ins 63 Group or Quasi-Group Implications. An advertisement of a particular policy shall not state or imply that prospective policyholders become group or quasi-group members and as such enjoy special rates or underwriting privileges, unless such is the fact.

Ins 64 Introductory, Initial or Special Offers. An advertisement shall not state or imply that a particular policy or combination of policies is an introductory, initial or special offer an that the applicant will receive advantages by accepting the offer, unless such is the fact.

Ins 65 Approval or Endorsement by Third Parties

(a) An advertisement shall not state or imply that an insurer or a policy has been approved or an insurer's financial condition has been examined and found to be satisfactory by a governmental agency, unless such is the fact.

(b) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association or other organization, unless such is the fact.

Ins 66 Service Facilities. An advertisement shall not contain untrue statements with respect to the time within which claims are paid or statements which imply that claim settlements will be liberal or generous beyond the terms of the policy.

Ins 67 Statements About an Insurer. An advertisement shall not contain statements which are untrue in fact or by implication misleading with respect to the insurer's assets, corporate structure, financial standing, age or relative position in the insurance business.

Ins 68 Special Enforcement Procedures

(a) Advertising File: Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of individual policies and typical printed, published or prepared advertisements of blanket, franchise and group policies hereafter disseminated in this or any other state whether or not licensed in such other state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodical inspection by this Department. All such advertisements shall be maintained in said file for a period of not less than three years.

(b) Certificate of Compliance: Each insurer required to file an annual statement which is now or which hereafter becomes subject to the provisions of these rules must file with this Department together with its annual statement, a certificate executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws of this state as implemented and interpreted by these rules. It is requested that the chief executive officer of each such insurer to which these rules are addressed acknowledge its receipt and indicate its intention to comply therewith.

Ins 69 Effective Date. The effective date of these rules shall be 90 days after the filing thereof with the Secretary of the State of Minnesota.

Filed April 18, 1956 with the Secretary of State and further filed with Commissioner of Administration June 23, 1964.

Chapters Six and Seven: Reserved
Chapter Eight: §§ 1.9080-1.9089 Automobile Insurance

§ 1.9080 Automobile finance accounts. Insurance companies writing insurance in connection with automobile finance accounts shall instruct their agents that each purchaser of automobiles or accessories insured under finance accounts shall be furnished with certificates of insurance, which certificates shall show the name of the insured, a proper description of the car or accessories, the coverage afforded by the insurance and the premium charged. The statement of premium should be divided as to type of coverage.

§§ 1.9081-1.9089 Reserved for Future Use.

Chapter Nine: §§ 1.9090-1.9100 Credit Life and Credit Accident and Health Insurance

§ 1.9090 Purpose of regulations. Minn. Stat. § 62B.07, subd. 2, of the Minnesota Insurance Code authorizes the Commissioner of Insurance to disapprove any credit life or credit accident and health insurance forms "if the premium rates charged or to be charged are excessive in relation to benefits. . . . " After extensive research and review of such insurance transactions in the State of Minnesota, including all expenses, factors and trends relevant thereto, and after careful analysis of a study made by the National Association of Insurance Commissioners, it is hereby determined that in considering the elements set forth in Minn. Stat. § 62B.07, subd. 2, the commissioner shall give reasonable consideration as to whether an anticipated loss ratio of "claims incurred" to "premiums earned" of 50% is developed.

§ 1.9091 Definitions for reporting and statistical data:

A. "Claims Incurred" means claims actually paid during the year appropriately adjusted for the yearly change in claim reserves, including reserves for reported claims in process of settlement and claims incurred but not reported.

B. "Claims" means benefits payable on death or disability, excluding loss adjustment expense, claims settlement costs, or other additions of any kind.

C. "Premiums Earned" means the total gross premiums received by the insurance company reduced by the premiums refunded or credited on account of termination of coverage before expiry of the term, and appropriately adjusted for changes in policy reserves during the accounting period.

§ 1.9092 Rate limitations. It shall be presumed that the premiums are not excessive in relation to the benefits if the premiums or premium rates as filed with the Commissioner do not exceed the following, or actuarially equivalent rates:

A. For decreasing term credit life insurance, a single premium of $ .60 per annum per $100.00 of initial insured indebtedness. A premium payable monthly at the rate of $ .92 per $1,000.00 of outstanding unpaid insured indebtedness will be deemed the actuarial equivalent of the foregoing rate. The premium rate standard set forth is applicable to a plan of death benefits with or without requirements for evidence of insurability.

1. which contains no exclusions, or no exclusions other than for suicide, flight in non-scheduled aircraft, war or military service, and

2. which contains no age restrictions, or only age restrictions making ineligible for the coverage,

a. debtors 65 or over at the time the indebtedness is incurred, or

b. debtors who will have attained age 66 or over on the maturity date of the indebtedness.

B. For level amount term credit life insurance a single premium of $1.11 per annum per $100.00 of initial insurance. A premium payable monthly at the rate of $ .92 per $1,000.00 of initial insurance will be deemed the actuarial equivalent of the foregoing rate. The premium rate standard set forth above is applicable to a plan of death benefits, with or without requirements for evidence of insurability:

1. which contains no exclusions, or no exclusions other than for suicide, flight in non-scheduled aircraft, war or military service, and

2. which contains no age restrictions, or only age restrictions making ineligible for the coverage,

a. debtors 65 or over at the time the indebtedness is incurred, or

b. debtors who will have attained age 66 or over on the maturity date of the indebtedness.

C. For decreasing term joint credit life insurance, a single premium of $1.00 per annum per $100.00 of initial insured indebtedness. A premium payable monthly at the rate of $1.54 per $1000.00 of initial joint credit life insurance will be deemed the actuarial equivalent of the foregoing rate. The premium rate standard set forth above is applicable to a plan of death benefits, with or without requirements for evidence of insurability:

1. which contains no exclusions, or no exclusions other than for suicide, flight in non-scheduled aircraft, war or military service, and

2. which contains no age restrictions, or only age restrictions making ineligible for the coverage,

a. debtors 65 or over at the time the indebtedness is incurred or

b. debtors who will have attained age 66 or over on the maturity date of the indebtedness.

D. For credit accident and health insurance the following single premium rates per $100.00 initial insured indebtedness in Schedule A or A-1, which are attached hereto and made a part of this Regulation.

An insurer may use a bracket rate, provided the bracket is either of a 3 month duration as set forth in Schedule A, or of a 6 month duration as set forth in Schedule A-1, and provided the middle rate or one of the middle rates of each bracket is the charge for any insurance falling within such 3 month or 6 month bracket, whichever the case may be.

Rates for policies of Credit Accident and Health Insurance on which premiums are paid other than in equal monthly installments or for such policies

providing benefits payable other than as specified above shall be actuarially consistent with the rates specified above. Each rate filing made under this section shall be certified by the company's actuary or by an officer of the company making the filing to the effect that the rates submitted do not exceed the maximum rates set forth in this Regulation or are the actuarial equivalents.

The premium rates specified are presumed not excessive in relation to benefits for policies which:

1. Contain no exclusion for pre-existing conditions except a provision excluding or denying a claim for disability resulting from pre-existing illness, disease or physical condition for which the debtor received medical advice, consultation or treatment during the six month period immediately preceding the effective date of the debtor's coverage and which would ordinarily be expected to affect materially the debtor's health during the period of coverage, provided, however, that after such coverage has been in force for six months (12 months for contracts of more than three years), this pre-existing exclusion clause shall not operate to deny coverage for any disability commencing thereafter;

2. may except or restrict coverage for total disabilities resulting from pregnancy, intentionally self-inflicted injuries, foreign travel or residence, flight in non-scheduled aircraft, or war or military service;

3. provide or offer coverage to all debtors regardless of age or to all debtors not older than a specified age limit which shall not be less than age 65 at the time the insurance becomes effective or 66 at the scheduled maturity date of the transaction.

E. If credit life or credit accident and health coverage is offered which is more restrictive than provided above, separate rate filings must be made at a level lower than that set forth, and which can reasonably be anticipated to produce a loss ratio of 50% in accordance with the basic test set forth in 4 MCAR § 1.9090.

F. An insurer may receive approval of a higher premium rate or schedule of rates to be used in connection with insurance on the debtors of a creditor or a class or classes of debtors if the insurer demonstrates, to the satisfaction of the Commissioner, that the mortality or morbidity experience which may reasonably be anticipated on such debtors of a creditor or a class or classes of debtors will develop a loss ratio in excess of 50% if the rate standards in 4 MCAR § 1.9092 A., B., C., and D. are used.

G. Insurers doing credit life and/or credit accident and health insurance business in the State shall annually file with the Insurance Division a report of its credit life insurance experience and credit accident and health insurance experience on forms prescribed by the Commissioner.

H. If premiums are paid monthly on outstanding balances, the monthly

premium rates shall be computed by a method which is actuarially consistent with the premiums on a single premium basis.

4 MCAR § 1.9092 shall become effective on the first day of January, 1978, and shall be applicable to all individual credit insurance policies sold thereafter and to all debtors enrolled under group certificates or policies issued or renewed after January 1, 1978.

§ 1.9093 Refunds of premium.

A. The refund of an unearned amount paid by or charged to the debtor for insurance in the case of reducing term credit life insurance or of credit accident and health insurance on which such charges to the debtor are payable by other than a single sum and of level term credit life insurance shall not be less than the pro rata gross unearned amount charged.

B. The refund of an unearned amount paid by or charged to the debtor for insurance in the case of reducing term credit life insurance or of credit accident and health insurance on which the insurance charges to the debtor are paid in a single sum shall not be less than the amount computed by the "sum of the digits" formula, commonly known as the "Rule of 78."

C. A premium refund or credit need not be made if the amount thereof is less than one dollar ($1.00).

§ 1.9094 Insurer's auditing rights. The insurer shall reserve its legal right to audit each creditor's account to verify the accuracy of premium payments or other identifiable insurance charges, premium refunds and claims incurred.

§ 1.9095 Level term insurance election. When the indebtedness is repayable in substantially equal installments, level term insurance not in excess of the total amount repayable under the contract of indebtedness will be permitted only if:

A. the debtor is apprised of his right to have insurance covering only the scheduled or actual amount of indebtedness,

B. and that the debtor is apprised that such insurance covering only the scheduled or actual amount of indebtedness will cost less than level term insurance, and

C. such debtor nonetheless elects in writing to carry level term insurance.

Such written election reciting the above three requirements shall be separately signed by the debtor and may be either:

1. a separate form, or

2. in a separate prominently displayed blocked section in the insurance application or the policy itself, or

3. in a separate prominently displayed blocked perforated addition to the top or bottom of the insurance application, or

4. in a separate prominently displayed blocked section on the credit instrument.

Prior approval of the form by the Commissioner shall be required.

New Credit Insurance Written Without Termination of Prior Insurance.

§ 1.9096 Existing credit insurance. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness, unless the debtor requests in writing that it be continued. Such written election to continue prior insurance shall be separately signed by the debtor at the time the indebtedness is renewed or refinanced, and may be either:

A. a separate form, or

B. in a separate prominently displayed blocked section of such credit instrument, or

C. in a separate prominently displayed blocked section in the new insurance application, or

D. in a separate prominently displayed blocked perforated addition at the top or bottom of the new insurance application.

Prior approval of the form by the Commissioner shall be required.

§ 1.9097 Continuing study. The Insurance Division feels it necessary to observe that the maximum rates as well as any approved deviations established and permitted in this Regulation are not to be considered as the final solution to the rate problems in credit insurance in this State. Study of the matter will therefore be continued by the Division, reports from the companies will be required, and further statistics will be accumulated. It is hence deemed appropriate that this matter be called up at a later date for further review and adjustment as the findings might dictate.

§ 1.9098 Separability clause. Separability: If any provision of this Regulation shall be held invalid, the remainder of the Regulation shall not be affected thereby.

§ 1.9099 Existing rates, approval. No policies of credit insurance issued after the effective date of this Regulation shall be at a rate in excess of that set forth herein, nor, with respect to existing group policies of credit insurance, shall the rate exceed that set forth herein commencing with the policy anniversary date after the effective date of this Regulation, without first obtaining the approval of the Commissioner.

§ 1.9100 Effective date. These regulations shall be effective the 31st day of December, 1967, provided, however, that any premium not consistent with those promulgated and set forth in section 92 of this regulation may be continued as follows:

A. Individual policies—for all which become effective prior to December 31, 1968.

B. Group policies—for all debtors whose coverage becomes effective prior to December 31, 1968.

SCHEDULE A

CREDIT ACCIDENT AND HEALTH INSURANCE PREMIUM RATES SINGLE PREMIUM RATES PER $100 OF INITIAL INDEBTEDNESS

Number of Equal Monthly Installments	Non-Retroactive Benefits Elimination Periods		Retroactive Benefits Waiting Periods	
	14 Days	30 Days	14 Days	30 Days
3	$1.00	$ .43	$1.65	$ .99
4	1.17	.58	1.85	1.21
5	1.30	.70	2.00	1.38
6	1.42	.81	2.12	1.51
7	1.51	.90	2.23	1.62
8	1.60	.99	2.32	1.72
9	1.67	1.07	2.41	1.80
10	1.74	1.13	2.48	1.88
11	1.80	1.19	2.54	1.95
12	1.86	1.24	2.61	2.01
13	1.91	1.30	2.66	2.07
14	1.97	1.35	2.72	2.12
15	2.01	1.40	2.76	2.17
16	2.06	1.44	2.80	2.22
17	2.10	1.48	2.85	2.27
18	2.14	1.52	2.89	2.31
19	2.18	1.56	2.94	2.34
20	2.22	1.60	2.98	2.39
21	2.26	1.64	3.01	2.43
22	2.30	1.67	3.05	2.46
23	2.33	1.70	3.09	2.50
24	2.36	1.74	3.12	2.54
25	2.40	1.78	3.16	2.57
26	2.43	1.82	3.19	2.61
27	2.46	1.85	3.22	2.64
28	2.50	1.88	3.26	2.67
29	2.53	1.91	3.30	2.72
30	2.56	1.95	3.33	2.75
31	2.60	1.98	3.37	2.78
32	2.63	2.00	3.39	2.80

SCHEDULE A (CONTINUED)

33	2.66	2.04	3.42	2.84
34	2.70	2.07	3.45	2.87
35	2.73	2.10	3.49	2.90
36	2.75	2.13	3.52	2.94
37	2.78	2.17	3.55	2.97
38	2.82	2.19	3.58	3.00
39	2.85	2.22	3.61	3.04
40	2.88	2.26	3.64	3.06
41	2.90	2.29	3.67	3.09
42	2.94	2.31	3.71	3.12
43	2.97	2.34	3.73	3.15
44	3.00	2.38	3.76	3.18
45	3.02	2.40	3.80	3.21
46	3.06	2.43	3.83	3.24
47	3.09	2.46	3.85	3.27
48	3.11	2.49	3.88	3.30
49	3.15	2.52	3.92	3.33
50	3.18	2.55	3.95	3.37
51	3.21	2.57	3.97	3.40
52	3.23	2.61	4.00	3.42
53	3.27	2.63	4.03	3.45
54	3.29	2.66	4.06	3.48
55	3.32	2.70	4.09	3.51
56	3.36	2.72	4.11	3.54
57	3.38	2.75	4.15	3.56
58	3.41	2.78	4.18	3.60
59	3.43	2.80	4.20	3.62
60	3.46	2.84	4.24	3.65

SCHEDULE A-1

CREDIT ACCIDENT AND HEALTH INSURANCE PREMIUM RATES
SINGLE PREMIUM RATES PER $100 OF INITIAL INDEBTEDNESS
SIX-MONTH ALTERNATIVE BRACKET RATE SCHEDULE

Number of Equal Monthly Installments	Non-Retroactive Benefits Elimination Periods		Retroactive Benefits Waiting Periods	
	14 Days	30 Days	14 Days	30 Days
3-8	$1.36	$ .76	$2.06	$1.44
9-14	1.83	1.21	2.57	1.98
15-20	2.12	1.51	2.87	2.29
21-26	2.35	1.72	3.10	2.52
27-32	2.54	1.92	3.32	2.74
33-38	2.74	2.12	3.51	2.93
39-44	2.92	2.30	3.68	3.11
45-50	3.11	2.48	3.87	3.29
51-56	3.28	2.64	4.03	3.46
57-60	3.42	2.79	4.19	3.61

CHAPTER SEVEN
UNFAIR TRADE PRACTICE RULES

Ins 110 Definitions

(a) **Person.** For the purpose of paragraphs 111(a), (b) and (e) of these regulations, person shall have the same meaning as in Minn. Stat. 72A.18, Subd. 2, as amended.

(b) **Premium Financing Plan.** Premium financing plan is any plan or program arranged by a licensed life insurance agent in connection with the purchase of an individual life insurance policy, annuity or endowment contract issued for delivery within this state, pursuant to which one or more premiums on such policy are to be paid in full or in part through credit, except the extension of credit for not more than 90 days to an individual who is at least 21 years of age.

(c) **Guaranteed Annual Endowments.** That form of life insurance policy containing a series of pure guaranteed annual endowments evidenced by coupons, passbooks, or similar devices generally identified with investment or banking operations.

(d) **Charter Policy.** That form of life insurance policy, usually issued by a newly-organized company, which is sold on the basis that its availability will be limited to a specific predetermined number of units of a fixed dollar amount and which generally provides that the polibyholder shall participate in the earnings resulting from either the participating policies or the non-participating policies sold by the company, or perhaps both. The prospective purchaser is led to believe that he will receive a special advantage in any future distribution of earnings, profits, dividends or abatement or premium not available to those persons holding other types of policies issued by the company.

(e) **Profit-Sharing Policy.** That form of life insurance policy which contains provisions representing or tending to create the understanding that the policyholder will be eligible to participate, with a special advantage not available to the persons holding other types of policies issued by the same company, in any future distribution of general corporate profits, as distinguished from a refund of the excess premiums paid by that policyholder.

(f) **Lending Institutions.** For the purpose of paragraph 111(i) of these regulations, the term lending institutions shall include:

(1) Persons, firms, associations or corporations engaged in the business of loaning monies for the purchase of property and for any other purpose which involves real or personal property as security; and

(2) Persons, firms, associations or corporations who act as agents for the organizations defined in the preceding subparagraph.

(g) **Risk.** For the purpose of paragraph 111(i) of these regulations, risk means the potential loss covered by a policy of insurance.

Ins 111 The following are hereby specifically defined as unfair and deceptive acts or practices in the business of insurance:

(a) Automatic Enrollment

(1) For a person to render a billing statement to, or otherwise attempt to collect premiums from a resident of Minnesota, for any insurance coverage which is in addition to or greater than that already in force until and unless the resident has expressly given his affirmative consent, oral or written, to such insurance coverage. This applies to any person whether or not he has had, or presently has, any insurance in force for the resident from whom an attempt is made to collect premiums. This paragraph shall not apply to:

(aa) Credit Life and Credit Accident and Health Insurance as defined by Minn. Stat., Sec. 62B.02, Subd. 2 and 3, as amended.

(bb) Insurance coverage written under a master policy or individual policies issued to employees of a common employer or to members of an association pursuant to an agreement with such employer or association.

(cc) Coverage which may either be required by law or is expressly permitted by law to be placed into effect without the prior affirmative consent of the insured.

(2) For a person to render a billing statement to or otherwise attempt to collect premiums from a resident of Minnesota for any credit life insurance or credit accident and health insurance (as those terms are defined by Minn. Stat. 62B.02, Subd. 2 and 3 as amended) until and unless the debtor (as that term is defined in Minn. Stat. 62B.02, Subd. 5, as amended) has expressly given his affirmative consent, oral or written, to such insurance coverage. Once a debtor becomes protected either by credit life or credit accident and health insurance, or both, the premium to be paid by that debtor shall not be altered until and unless the debtor, subsequent to becoming protected by that insurance, has given his prior written approval to continuing to be insured at the altered premium, unless the extent of the coverage remains unchanged. A reduction in coverage without a reduction in the premium rate will be deemed an "altered premium."

(b) **Premium Financing.** For a premium financing plan to be used unless the purchaser is furnished with a copy of a clear statement of the relevant details of the credit transaction on or before the later of (i) the date on which said premium financing plan is to become operative or (ii) the date the policy is delivered and unless such statement is dated and contains the following:

(1) The name and address of the agent and the company proposing to issue the life insurance policy, annuity or endowment contract and the type of said policy or contract;

(2) The annual premium (or total or periodic premiums per year) for said policy or contract;

(3) The amount of said premiums to be financed for each year of premium financing plan;

(4) The amount of charges other than principal and interest, each such charge to be labeled and stated separately;

(5) The amounts and due dates of payments;

(6) The name and address of the person or firm to which such payments are to be made; and

(7) The signatures of the purchaser and of the insurance agent or other representative of the insurer.

The provisions of this clause do not apply to any financing of the premium for decreasing or level credit life insurance or credit accident and health insurance.

(c) **Policy Name or Title.** For any insurance company, insurance agent or company representative to deliver within this State, or issue for delivery within this State, any individual policy of life insurance without the use of the words "life insurance" on its name or title or the use of other language clearly indicating that the policy is a policy of life insurance, annuity or an endowment contract.

(d) **Certain Terms.** To use the terms "Investment", or "Investment Plan", "Expansion Plan", "Profit", "Profit-Sharing", and other similar terms in connection with a life insurance policy, annuities or endowment contracts in a context or under such circumstances or conditions as to have a capacity or tendency to mislead a purchaser or prospective purchaser of such policy or contract to believe that he will receive, or that it is possible that he will receive, something other than a life insurance policy, an annuity or an endowment contract or some benefits not provided in the policy or contract or some benefit not available to other persons of the same class and equal expectation of life.

(e) **Sales Practices.** For any person within this State to:

(1) Make any statement or reference relating to the growth of the life insurance industry or to the tax status of life insurance companies in connection with any solicitation for life insurance, annuities or endowment contracts in a context which could reasonably be understood to interest a prospect in the purchase of shares of stock in an insurance company rather than in the purchase of a life insurance policy, an annuity or an endowment contract;

(2) Make any statement which reasonably gives rise to the inference that an insured or a prospective insured will enjoy a status common to a stockholder in the insurance company or will acquire a stock ownership interest in the insurance company;

(3) Make any reference to or statement concerning an insurance company's "Investment Department", "Insured Investment Department", or similar terminology in such a manner as to imply that the life insurance policy, annuity or endowment contract was sold or issued by the investment department of the life insurance company;

(4) Make any statement or reference which would reasonably tend to imply that by purchasing a life insurance policy, annuity or endowment contract, the purchaser or prospective purchaser will become a member of a limited group of persons who may receive special advantages from the company or favored treatment in the payment of dividends unless such

benefits are specifically provided in the policy or contract (this clause has no relation or applicability to policies or contracts under which insured persons of one class of risk may receive dividends at a higher rate than persons of another class of risk);

(5) State or imply that only a limited number of persons, or a limited class of persons, will be eligible to buy a particular kind of life insurance policy, annuity or endowment contract, unless such limitation can be verified by the underwriting practices of the insurance company;

(6) State or imply that policyholders or contract holders who are said to act as "centers of influence" for an insurance company will share, because of so acting, in the company's surplus earnings in some manner not available to other policyholders or contract holders who are otherwise in the same class;

(7) Describe or refer to premium payments in language which states that the payment is a "deposit" unless:

(aa) The payment establishes a debtor-creditor relationship between the life insurance company and the policyholder or contract holder and a showing is made as to when and how the deposit may be withdrawn; or

(bb) The term is used in conjunction with the word "premium" in such a manner as to indicate clearly the true character of the payment;

(cc) The term is used in conjunction with a deposit administration plan;

(8) Provide any illustrations or projection of future dividends on any policy or contract unless:

(aa) The illustration or projection is based upon the experience currently used by the insurance company for dividends or upon a scale adopted by the company and which is based upon the experience currently used by the company and

(bb) The illustration or projection clearly indicates that the dividends shown are not guaranteed;

(9) Use the words "dividends", "cash dividends", "surplus", or similar phrases in such a manner as to state or imply that the payment of dividends is guaranteed or certain to occur;

(10) State or imply that a purchaser of a life insurance policy, an annuity other than a contract on a variable basis, or an endowment contract will share in a stated percentage or portion of the earnings of the insurance company (nothing in this subsection is intended to prohibit a representation that a holder of a participating policy or contract will participate in the share of the divisible surplus, if any, apportioned to the policy or contract by the insurance company);

(11) Make any statement or imply that projected dividends under a participating policy or contract will be or can be sufficient at any time to assure the receipt of benefits, such as a paid-up policy or contract, without the further payment of premiums, unless the statement is accompanied by an adequate explanation as to:

(aa) What benefits or coverage would be provided or discontinued at such time; and

(bb) The conditions under which this would occur;

(12) State that the insured is guaranteed certain benefits if the policy or contract is allowed to lapse without making an explanation of the non-forfeiture benefits.

(13) Describe or advertise a life insurance policy, an annuity, an endowment contract or premium payments therefor except contracts on a variable basis in terms of "units of participation" unless accompanied by other language clearly indicating the reference to a policy or contract or to premium payments, as the case may be;

(14) Include in sales kits and prepared sales presentations proposed answers to be used in response to a prospect's questions as to whether a life insurance policy, an annuity or an endowment contract is being sold, which are designed to avoid a clear and unequivocal statement that life insurance, an annuity or endowment contract is the subject matter of the solicitation;

(15) Display in any manner to a prospective policyholder any material which includes illustrations, using dollar amounts, in connection with the proposed sale of a life insurance policy, an annuity or endowment contract unless the material clearly identifies the source of the dollar amounts and the subject to which such amount pertain;

(16) Make any general statement that insurance companies make a profit as a result of policy lapses or surrenders;

(17) Make unfair or misleading comparisons to the past experience of other life insurance companies as a means of projecting possible experience of the soliciting company;

(18) Represent pure annual endowment benefits as earnings on premiums invested, or represent that a pure annual endowment benefit in a policy is other than a guaranteed benefit for which a premium is being paid by the policyholder;

(19) State that a policy or contract contains certain features which are not found in other life insurance policies, annuities or endowment contracts, unless that be true;

(20) Represent an option to purchase life insurance in the future in such a manner that the policyholder might reasonably infer that instead of merely acquiring an option, he is purchasing present benefits which would result in a payment to the beneficiary in the event of the death of the policyholder;

(21) Make reference to a policy of life insurance, an annuity or an endowment contract in such a manner as to materially misrepresent the true nature of the policy or contract;

(22) As a competitive or "twisting" device, inform any policyholder or prospective policyholder that any insurance company was required to change a policy or contract form or related material to comply with the provisions of this Regulation.

(f) **Guaranteed Annual Endowments.** To issue a guaranteed annual endowment policy or any other policy which is essentially a coupon policy.

(g) **Charter Policies.** To issue any form of a charter policy whether heretofore approved or not.

(h) **Profit-Sharing Policies.** To issue any form of a profit sharing policy, annuity or endowment contract whether heretofore approved or not. Provided, however, nothing in this section is intended to apply to contracts on a variable basis to the extent that they are permitted under the laws of this State.

(i) **Disapproval of Insurer or Policy of Insurance.** For a lending institution to disapprove an insurer or policy of insurance, insuring or covering property, real or personal, which serves as security for loan, or the purpose of which is the object of the institution's financing loan, where such disapproval:

(1) Has the effect of encouraging the insured to carry insurance with an insurer of the institution's choice; or

(2) Is based on standards unrelated to insurer's ability to assume the risk or authorization to write the risk; or

(3) Is based on a rating requirement disproportionate to the size of the risk.

Ins 112 Penalties. A violation of any of the provisions of this Regulation by whatever means, including but not being limited to the use of certain policies or contracts or presentations, whether involving language or illustrations disseminated by means of sales kits, jackets or covers, letters, personal confrontations, visual aids or other media, shall be deemed to be a violation of the Insurance Laws of this State and shall subject any person, firm or corporation so violating any provision of this Regulation to the penalty provided by Minn. Stat., Sec. 72A.09, as amended, in addition to any other penalty provided by law.

Ins 113 Effective Date. This Regulation becomes effective on March 1, 1969.

Ins 114 Existing Policies and Contracts. This Regulation does not affect the validity of any life insurance policy, annuity or endowment contract in force on the effective date hereof. However, the previous approval by this Division of any form of policy or contract prohibited by these rules is hereby withdrawn effective March 1, 1969, and no such policy or contract shall be sold after that date.

Ins 115 Severability. If any provision or clause of these rules or the application thereof to any person or situation is held invalid or not approved by the Attorney General, such invalidity or lack of approval shall not affect any other provision or application of the rules which can be given effect without the invalid or non-approval provision or application, and to this end the provisions of these rules are declared to be severable.

Ins 116-119 Reserved for Future Use

Filed February, 1970

CHAPTER NINE: Ins 150-175
REGULATIONS FOR INSURANCE HOLDING COMPANY SYSTEMS

Ins 150 Authority. These regulations are promulgated pursuant to the authority granted by Laws of Minnesota 1971, Chapter 288, Section 7.

Ins 151 Purpose. The purposes of these regulations are to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of the Act. The information called for by these regulations is hereby declared to be necessary and appropriate in the public interest and for the protection of policyholders and shareholders of insurance companies in this State.

Ins 152 Definitions

(a) As used in these regulations, the terms defined herein shall have the meanings ascribed to them, and the terms defined in Laws of Minnesota 1971, Chapter 288, Section 1 shall have the meanings ascribed to them therein, unless the context of usage clearly indicates otherwise. Other nomenclature or terminology is according to the meanings given in the laws of this State relating to insurance or according to insurance industry usage, if not defined in the laws of this State.

(b) "Executive officer" means any individual charged with active management and control in an executive capacity (including a president, vice president, treasurer, secertary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers) of a person, whether incorporated or unincorporated.

(c) "Foreign insurer" includes an alien insurer.

(d) "Company" means any person which is not an individual.

(e) "Ultimate holding company" means that company within an insurance holding company system which is not controlled by any other company; provided, however, that if the Commissioner so determines, the ultimate holding company in a particular insurance holding company system shall be that company which the Commissioner determines to be the affiliated person concerning which the disclosures required hereunder would be most meaningful and would best serve to effectuate the purposes of the Act.

(f) "The act" means Laws of Minnesota 1971, Chapter 288.

(g) "Acquisition filing statement" means the staetment that must be filed prior to the acquisition of control or an attempt to acquire control, as specified in Section 2 of the act.

(h) "Registration statement" means the statement that must be filed pursuant to Section 3 of the act.

Ins 153 Approval of Acquisition of Control; Hearing. The Commissioner may order a public hearing prior to approval of an acquisition of control, but such hearing is not mandatory prior to approval.

Ins 154 Extraordinary Dividends and Other Distributions

(a) Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

(1) the date established for payment of the dividend;

(2) a statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

(3) the amounts and dates of all dividends (including regular dividends) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(4) a balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted;

(5) a brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

Ins 155 Adequacy of Surplus. The factors set forth in the act, Section 4, Subdivision 2, are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor shall be controlling. The Commissioner, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

Ins 156 Severability Clause. If any provision of these regulations, or the application thereof to any one person or circumstance, is held invalid, such invalidity shall not effect other provisions or applications of these regulations which can be given effect without the invalid provision or application, and to that end the provisions of these regulations are severable.

Ins 157 Forms for Acquisition Filing Statements and Registration Statements.

(a) **General Requirements**

(1) Minn. Reg Ins 162 (Form A, Acquisition Filing Statement) and Minn. Reg Ins 163 (Form B, Registration Statement) are merely guides in the preparation of the statements required by the act and are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are so prepared as to indicate to the reader the coverage of the items without the necessity of his referring to the text of the items or the instructions thereto. All instructions, whether appearing under the items of the form or elsewhere thereon, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(2) Two (2) complete copies of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery or mail addressed to: Insurance

Commissioner of the State of Minnesota, State Office Building, St. Paul, Minnesota 55155. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall be filed with the statement.

(3) Statements should be prepared on paper 8½"x11" or 8½"x13" in size and preferably bound at the top or the top lefthand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

(b) **Incorporation by Reference, Summaries and Omissions**

(1) Information required by any item of Minn. Reg Ins 162 Form A or Minn. Reg Ins 163 Form B may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of either form, provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents already on file with the Commissioner need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(2) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the most important provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document on file with the Commissioner and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents a copy of which is filed.

(c) **Information Unknown or Unavailable and Extension of Time to Furnish**

(1) Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests particularly within the knowledge of another

person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

(aa) The person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(bb) The person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

(2) If it is impractical to furnish any required information, document or report at the time it is required to be filed, there may be filed with the Commissioner as a separate document an application (1) identifying the information, document or report in questions, (2) stating why the filing thereof at the time required is impractical, and (3) requesting an extension of time for filing the information, document or report to a specified date. The application shall be deemed granted unless the Commissioner within 10 days after receipt thereof, shall enter an order denying the application.

(d) **Additional Information and Exhibits.** In addition to the information expressly required to be included in the statements by these regulations, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

(e) **Amendments.** Any amendment for either form shall include on the top of the cover page the phrase: "Amendment No. ———— to" and shall indicate the date of the amendment and not the date of the original filing.

Ins 158 Acquisition Filing Statement

(a) **Statement Required.** A person required to file a statement pursuant to the act, Section 2, shall furnish the required information as provided in these regulations and in Minn. Reg Ins 162 in particular.

(b) **Amendments.** The applicant shall promptly advise the Commissioner of any changes in the information so furnished arising subsequent to the date upon which such information was furnished but prior to the Commissioner's disposition of the application.

(c) **Acquisition of Voting Securities of a Person Other Than the Domestic Insurer.** If the voting securities being acquired have been issued by a person other than the domestic insurer, the domestic insurer on the cover page should be indicated as follows:

> "ABC Insurance Company, a subsidiary of XYZ Holding Company";

and all references to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person whose voting securities are being acquired.

Ins 159 Registration Statement

(a) **Statement Required.** An insurer required to file a statement pursuant to the act, Section 3 and these regulations, shall furnish the required information as provided in these regulations and in Minn. Reg Ins 163, in particular.

(b) **Amendments**

(1) An amendment to the statement required in Minn. Reg Ins 159 (a) shall be filed within 15 days after the end of any month in which the following occurs:

(aa) there is a change in the control of the registrant, in which case the entire statement shall be made current;

(bb) there is a material change in the information required by Minn. Reg Ins 163, Item 5 or Item 6.

(2) An amendment to the statement shall be filed within 120 days after the end of each fiscal year of the ultimate holding company. Such amendment shall make current all information in the statement.

(c) **Alternative and Consolidated Registrations**

(1) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under the act, Section 3. A registration statement may include information regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this State. In lieu of filing a registration statement as prescribed in Minn. Ins Reg 163 (Form B), the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its State of domicile, provided:

(aa) the statement or report contains substantially similar information required to be furnished by Minn. Reg Ins 163; and

(bb) the filing insurer is the principal insurance company in the insurance holding company system.

(2) The questions of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Minn. Reg Ins 163 (Form B) on behalf of an affiliated insurer, shall set forth a simple statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(3) With the prior approval of the Commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under Minn. Reg Ins 159 (c) (1).

(4) Any insurer may take advantage of the provisions of the act, Section 3, Subdivision 6 or 7, without obtaining the prior approval of the Commissioner. The Commissioner, however, reserves the right to require individual filings if he deems such filings necessary in the interest of clarity, ease of administration, or the public good.

(5) The State of entry of an alien insurer shall be deemed to be its domiciliary State for the purposes of Section 3 of the act.

Ins 160 Registration Statements; Exemptions from Filing. The provisions of the act, Section 3, shall not apply in those situations described therein and in this regulation.

(a) The registration and amendments required in the act, Section 3, shall not be required for any insurance company domiciled in the State of Minnesota if and so long as that company and all insurance company affiliates in its insurance holding company system do not sell any insurance or otherwise provide insurance protection to any person outside of the insurance holding company system, and it does not hold itself out as willing or available to sell insurance or otherwise provide insurance protection to members of the general public.

(b) The registration and amendments required in the act, Section 3, shall not be required for any insurance company not domiciled in the State of Minnesota which is otherwise required to file a registration statement, if the insurance company is included in a filing as an affiliate of another insurance company that is exempt from the requirements of the act, Section 3, by virtue of the fact that it must file a registration statement in another state under statutes and regulations which are substantially similar to the act and these regulations. However, the Commissioner may request a copy of the registration statement filed in another state.

Ins 161 Disclaimers and Termination of Registration

(a) A disclaimer of affiliation or a request for termination of registration claiming that a person does not or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

(1) the number of authorized, issued and outstanding voting securities of the subject;

(2) with respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;

(3) all material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;

(4) a statement explaining why such person should not be considered to control the subject.

(b) A request for termination of registration shall be deemed to have been granted unless the Commissioner, within 30 days after he received the request, notifies the registrant otherwise.

Ins 162 Form A; Acquisition Filing Statement

STATEMENT REGARDING THE
ACQUISITION OF CONTROL OF A DOMESTIC INSURER

_____

Name of Domestic Insurer

BY

_____

Name of Acquiring Person (Applicant)

Filed with the Insurance Department of _____
(State of domicile of insurer being acquired)

Dated: _____, 19____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

_____

_____

_____

_____

FORM A

ITEM 1. INSURER AND METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than ½ of 1% of the total assets of the ultimate holding company affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g.—corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings looking toward a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

State the following with respect to (1) the applicant if he is an individual or (2) all persons who are directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual:

(a) Name and business address;

(b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(c) Material occupations, positions, offices or employment during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith.

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last 10 years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION

(a) Describe the nature, source and amount of funds or other considerations to be used in the acquisition of control. If any part of the same is represented or is to be represented by funds, or other consideration

borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity to remain confidential, he must specifically request that the identity be kept confidential.

ITEM 5. FUTURE PLANS FOR INSURER

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

ITEM 7. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OR THE INSURER

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any persons listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding or proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any such shares so purchased are hypothecated.

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

ITEM 11. AGREEMENTS WITH BROKER-DEALERS

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item all the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2 (c) for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the Commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of such person filed with the insurance department of the person's domiciliary State and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) File as exhibits copies of, or a statement fully describing, all tender offers for, requests or invitations for, tenders of, exchange orders for and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto; and proposed employment, consultation, advisory or management contracts concerning the insurer; annual reports to the stockholders of the insurer and the applicant for the last two fiscal years; and any additional documents or papers required by Form A or Minn. Reg Ins 157 (a) and Minn. Reg Ins 157 (c).

ITEM 13. SIGNATURE AND CERTIFICATION
Signature and certification of the following form:

SIGNATURE

Pursuant to the requirements of Section 2 of the act and Minn. Reg Ins 158 (a), _____ has caused this application to be duly
(Name of Applicant)
signed on its behalf in the City of _____ and State of _____ on the ____ day of _____,
(SEAL)
19____.

_____
(Name of Applicant)

By_____
(Name) **(Title)**

Attest:

_____
(Signature of Officer)

_____
(Title)

CERTIFICATION

The undersigned deposes and says that he has duly executed the attached application dated _____, 19____, for and on behalf of _____; that he is the _____ of such company, and that he is authorized to execute and file such statement. Deponent further says that he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his knowledge, information, and belief.

(Signature)_____

(Type or print name beneath)_____

FORM B
INSURANCE HOLDING COMPANY SYSTEM
REGISTRATION STATEMENT

Filed with the Insurance Department of the State of _____

BY

_____
Name of Registrant
On behalf of the Following Insurance Companies

Name	Address

Date:_____, 19____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

_____

_____

_____

_____

Ins 163 Form B; Registration Statement

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. No affiliate need be shown if its total assets are equal to less than ½ of 1% of the total assets of the ultimate holding company within the insurance holding company system. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g.—trust, partnership, corporation) and the state or other jurisdiction of domicile.

ITEM 3. THE ULTIMATE HOLDING COMPANY

As to the ultimate holding company in the insurance holding company system furnish the following information;

(a) Name

(b) Home office address

(c) Principal executive office address

(d) The organization structure of the company, i.e., corporation, partnership, trust, etc.

(e) The principal business of the company

(f) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.

(g) If court proceedings looking toward a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

ITEM 4. BIOGRAPHICAL INFORMATION

Furnish the following information for the directors and executive officers of the ultimate holding company: the individual's name and address, his principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years.

ITEM 5. TRANSACTIONS, RELATIONSHIPS AND AGREEMENTS

(a) Briefly describe the following agreements in force, relationships subsisting, and transactions currently outstanding between the Registrant and its affiliates:

(1) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;

(2) purchases, sales or exchanges of assets;

(3) transactions not in the ordinary course of business;

(4) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;

(5) all management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles; and

(6) reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

No information need be disclosed if such information is not material. Sales, purchases, exchanges, loans or extensions of credit or investments involving one-half of 1% or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material.

The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include at least the following: the nature and purpose of the transaction; the nature and amounts of any payments or transfers of assets between the parties; the identity of all parties to such transactions; the relationship of the affiliated parties to the Registrant.

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate holding company or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

(a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

(b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

ITEM 7. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the ultimate holding company in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis, or unless the Commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate holding company and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate holding company is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of such insurer filed with the insurance department of the insurer's domiciliary State and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate holding company and proxy material used by the ultimate holding company; and any additional documents or papers required by Minn. Reg Ins 163 (Form B) or Minn. Reg Ins 157 (a) or (c).

SIGNATURES

Signatures and certification of the form as follows:

SIGNATURE

Pursuant to the requirements of Section 3 of the act and Minn. Reg Ins 159 (a), the Registrant has caused this registration statement to be duly signed on its behalf in the City of _____ and State of _____, on the _____ day of _____, 19____.

(SEAL)

_____
(Name of Registrant)

By_____
(Name) (Ttitle)

Attest:

_____
(Signature of Officer)

_____
(Title)

CERTIFICATION

The undersigned deposes and says that he has duly executed the attached registration statement dated _____, 19____, for and on behalf of _____; that he is the _____ (Name of Company) (Title of Officer) of such company, and that he has authority to execute and file such instrument. Deponent further says that he is familiar with such instrument and that the facts therein set forth are true to the best of his knowledge, information and belief.

(Signature)_____

(Type or print name beneath)_____

Ins 164-175 Reserved for Future Use

Filed with the Secretary of State and Commissioner of Administration December 22, 1971.

INSURANCE DIVISION RULES AND REGULATIONS
HEALTH MAINTENANCE ORGANIZATIONS

CHAPTER TEN: Ins 176-178

Ins 176 Authority and Purpose.

These regulations are promulgated pursuant to the authority granted by Laws of Minnesota, 1973, Chapter 607, Section 10, Subd. 4, and Section 19, and by Minnesota Statutes, Section 15.0412, for the purpose of setting forth rules and procedural standards which the Commissioner deems necessary to carry out the provisions of the Act.

Ins 177 Licensing Agents, Examinations

(a) Pursuant to Minnesota Statutes, Section 62D.22, Subd. 8, and in accordance with Minnesota Statutes 1971, Section 60A.17, and Agents' License Regulations of the Insurance Division, Section 20, the Commissioner shall conduct written examinations for the licensing of health maintenance organization agents, solicitors and brokers. Such examinations shall be designed to determine:

(1) The abilities and qualifications of each license applicant to protect the rights of health maintenance organizations, enrollees, providers association with health maintenance organizations and the general public relative to solicitations for enrollment in health maintenance organizations; and

(2) Each license applicant's familiarity with enrollee obligations, rights and duties under health maintenance contracts and evidences of coverage, health service benefits thereunder, charges for and limitations upon services, and the authorized forms of solicitation and advertising of health maintenance organization services.

(b) Upon application in writing, affirmatively showing the reason or reasons therefor, the Commissioner may conduct special examinations for purposes of authorizing solicitation or advertising limited in scope or duration or for particular requirements of health maintenance organization agent, solicitor and broker license applicants.

Ins 178 Unreasonable Expenses

(a) Determinations.

Not less frequently than once every three years, the Commissioner shall determine whether any expense a health maintenance organization incurs or pays is unreasonably high in relation to the value of any service or good provided to it. In making such determinations, the Commissioner shall, to the extent possible, give due consideration to:

(1) The expense incurred or paid by other health maintenance organizations and other health care delivery systems for the same or similar service or good;

(2) The cost of such service or good to the supplier thereof;

(3) The impact of such expense upon the finance solvency of the health maintenance organization;

(4) All pertinent cost/service data obtained or obtainable by the Board from the health maintenance organization pursuant to Sections 62D.03, 62D.04, 62D.08, 62D.10 and 62D.14 of the Act;

(5) Guidelines developed and published pursuant to Minnesota Statutes 1971, Section 145.61, Subd. 5(e);

(6) Pertinent data available from any rating organization approved by the Commissioner; and

(7) Such other information and information collection techniques as the Commissioner may employ which show the real cost or fair market value of such service or good.

(b) Enforcement.

Upon a finding that a health maintenance organization is incurring or paying for any expense which is unreasonably high in relation to the value of the service or good provided, the Commissioner may:

(1) Exercise the enforcement authority granted him pursuant to Minnesota Statutes 1971, Sections 72A.17 through 72A.32;

(2) Issue an order pursuant to Section 62D.18 of the Act;

(3) Report such finding to the Board and recommend the exercise of any authority available to the Board pursuant to Sections 62D.15 through 62D.17 of the Act; or

(4) Exercise such other statutory power as is available to him and which he deems appropriate.

(Filed July 8, 1974)

AR 02075T

4 MCAR S 1.9120 Authority. Rules 4 MCAR SS 1.9120-1.9136 are promulgated by the commissioner of insurance under Minnesota Statutes, sections 60A.031 and 60A.13.

4 MCAR S 1.9121 Purpose and scope. The purpose of 4 MCAR SS 1.9120-1.9136 is to improve the Minnesota insurance division's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial condition and the results of operations of insurers.

Rules 4 MCAR SS 1.9120-1.9136 shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of the practices, procedures, financial condition, market conduct, and other aspects of the operations of insurers.

Rules 4 MCAR SS 1.9120-1.9136 apply to all insurers required under Minnesota Statutes, section 60A.13, subdivision 3a to file a report of their annual audit, except that insurers having direct premiums written in this state of less than $100,000 in any year and having fewer than 500 policyholders in this state at the end of any year are exempt from the provisions of 4 MCAR SS 1.9120-1.9136 for that year.

Insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from the provisions of 4 MCAR SS 1.9120-1.9136 if:

A. A copy of the audited financial report, the evaluation of accounting procedures, and systems of internal control report, which are filed with the other state, are filed with the commissioner in accordance with the filing dates specified in 4 MCAR S 1.9123 and 4 MCAR S 1.9130. Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance; and

B. A copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in 4 MCAR S 1.9129.

4 MCAR S 1.9122 Definitions.

A. Terms. Unless the context requires otherwise, the terms defined in B.-G. have the meanings given them.

B. Accountant. "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed to practice. For Canadian and

British companies, the term means a Canadian-chartered or British-chartered accountant.

C. Audited financial report. "Audited financial report" includes those items specified in 4 MCAR S 1.9124.

D. Commissioner. "Commissioner" means the commissioner of insurance of the state of Minnesota.

E. Examiner. "Examiner" means an examiner of the Insurance Division of the Department of Commerce of the state of Minnesota.

F. Executive officer. "Executive officer" means any individual whose duties relate to active participation in control, supervision, and management of a person, whether incorporated or unincorporated. The term includes a chairman of the board, president, vice-president, treasurer, secretary, controller, and any other individual performing in a similar position.

G. Insurer. "Insurer" means a company required to have an annual audit by Minnesota Statutes, section 60A.13, subdivision 3a.

AR020175T

4 MCAR S 1.9123 Filing and extensions for filing of annual audited financial reports. All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the commissioner on or before June 30 for the year ending December 31.

Extensions of the June 30 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified-public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

4 MCAR S 1.9124 Contents of annual audited financial report. The annual audited financial report shall report, in conformity with statutory accounting practices required or permitted by the commissioner of insurance of the state of domicile, the financial condition of the insurer as of the end of the most recent calendar year and the results of its operations, changes in financial position, and changes in capital and surplus for the year then ended.

The annual audited financial report shall include all of the following:

A. A report of an independent certified public accountant;

B. A balance sheet reporting admitted assets, liabilities, capital, and surplus;

C. A statement of gain or loss from operations;

D. A statement of changes in financial position;

E. A statement of changes in capital and surplus;

F. Any notes to financial statements. These notes shall be those required by generally accepted accounting principles and shall include:

1. a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under Minnesota Statutes, section 60A.13, subdivision 1 with a written description of the nature of these differences; and

2. a narrative explanation of all significant intercompany transactions and balances; and

G. Supplementary information which includes any additional information which the commissioner may from time to time require to be disclosed.

The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner.

The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately-preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

The amounts may be rounded to the nearest thousand dollars, and all insignificant amounts may be combined.

4 MCAR S 1.9125 Designation of independent certified public accountant. Each insurer required by 4 MCAR S 1.9123 to file an annual audited financial report must notify the commissioner in writing of the name and address of the certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement.

Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained certified public accountant not less than six months before the date when the first certification is to be filed.

The insurer shall obtain from the accountant a letter which

states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance division of the state of domicile. The letter shall affirm that opinions on the financial statements will be expressed in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that division, unless exceptions to these practices are appropriate. The letter shall specify all exceptions believed to be appropriate. A copy of this letter shall be filed with the commissioner.

If an accountant who was not the accountant for the immediately preceding filed audited financial report is engaged to audit the insurer's financial statements, the insurer shall notify the division of this event within 30 days of the date the accountant is engaged. The insurer shall also furnish the commissioner with a separate letter stating whether in the 24 months preceding this engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to the subject matter of the disagreement in connection with his opinion. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons that he does not agree. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

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4 MCAR S 1.9126 Qualifications of independent certified public accountant. The commissioner shall not recognize any person or firm as an independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or for a Canadian or British company, that is not a chartered accountant.

Except as otherwise provided, a certified public accountant shall be recognized as independent as long as he or she conforms to the standards of his or her profession.

The commissioner, after notice and hearing under Minnesota Statutes, chapter 15, may find that the accountant is not independent for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is independent within the meaning of this rule.

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4 MCAR S 1.9127 Consolidated or combined audits. Upon written application and for specified periods, the commissioner may permit an insurer to file audited consolidated or combined

financial statements in lieu of separate annual audited financial statements. In such cases, the report shall include an organization chart of the companies together with a columnar consolidating or combining worksheet.

Amounts shown on the audited consolidated or combined financial statement shall be shown on the worksheet.

Amounts for each insurer subject to this rule shall be stated separately.

Noninsurance operations may be shown on the worksheet on a combined or individual basis.

Explanations of consolidating and eliminating entries shall be included on the worksheet.

A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers shall be included on the worksheet.

4 MCAR S 1.9128 Scope of examination and report of independent certified public accountant. Financial statements furnished under 4 MCAR S 1.9124 shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards and consideration should be given to such other procedures illustrated in the "Financial Condition Examiners Handbook," in the Examiners Handbook, issued by the National Association of Insurance Commissioners (Milwaukee, Wisconsin: 1976, as amended) as the independent certified public accountant deems necessary.

4 MCAR S 1.9129 Notification of adverse financial condition. The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to immediately notify in writing an executive officer and all directors of the insurer of the final determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirement of Minnesota Statutes, section 60A.07 as of that date.

Any executive officer or director of an insurer required to file an annual audited financial report who received any notification of adverse financial condition from the accountant shall make a written report to the commissioner of the existence of the materially misstated financial condition or the failure to meet the minimum capital and surplus requirements of the commissioner within three business days of the notification.

If the accountant becomes aware of facts which might have affected this report subsequent to the date of the audited financial report filed under this rule, the accountant shall take the action prescribed by section AU561, volume 1 of the AICPA Professional Standards, issued by the American Institute of Certified Public Accountants.

4 MCAR S 1.9130 Evaluation of accounting procedures and system of internal control. In addition to the annual audited financial report, each insurer shall furnish the commissioner with a report of the evaluation performed by the accountant, in connection with the examination, of the accounting procedures of the insurer and its system of internal control.

A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control, including any remedial action taken or proposed, shall be filed annually by the insurer with the division within 60 days after the filing of the annual audited financial report.

This report on internal control shall be in the form prescribed by generally accepted auditing standards.

4 MCAR S 1.9131 Definition, availability, and maintenance of certified public accountant workpapers. Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the examination of the financial statements of an insurer. Workpapers may include work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the examination of the financial statements of an insurer and which support his opinion.

Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the workpapers prepared in the conduct of the examination. The insurer shall require that the accountant retain the audit workpapers for a period of not less than five years after the period reported upon.

In the conduct of the periodic review by the examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the insurance division. These copies shall be part of the commissioner's workpapers.

4 MCAR S 1.9132 Exemptions. Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of 4 MCAR SS 1.9120-1.9136 if the commissioner finds, upon review of the application, that compliance would constitute a financial hardship upon the

insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from a denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing shall be held in accordance with Minnesota Statutes, chapter 15.

Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. No exemption shall be granted until the insurer presents an alternative method satisfying the purposes of this rule. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing shall be held in accordance with Minnesota Statutes, chapter 15.

IR 02075T

4 MCAR S 1.9133 Reports prepared in accordance with generally accepted accounting principles. With the commissioner's approval, an insurer may comply with this rule by filing the requisite reports which have been prepared in accordance with generally accepted accounting principles if the notes to the financial statements include a reconciliation of differences between net income and capital and surplus on the annual statement filed pursuant to Minnesota Statutes, section 60A.13, subdivision 1 and comparable totals on the audited financial statements, and a written description of the nature of these differences.

4 MCAR S 1.9134 Examinations. The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this rule conducted by examiners under Minnesota Statutes, section 60A.031. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioner's Insurance Regulatory Information System, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this rule shall be compliance examinations, targeted examinations, and comprehensive examinations.

Compliance examinations will consist of a review of the accountant's workpapers defined under 4 MCAR S 1.9131 and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the insurance division. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

Comprehensive examinations will be performed when the report of the accountant as provided for in 4 MCAR S 1.9128, the notification required by 4 MCAR S 1.9129, the results of compliance or targeted examinations, or other circumstances indicate in the judgement of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant which the examiners may have utilized to supplement their examination procedures and the procedures which were performed by the registered independent certified public accountant if included as a supplement to the examination.

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4 MCAR S 1.9135 Canadian and British companies.

A. Annual audited financial report. In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

B. Conformity letter. For these insurers, the letter required in 4 MCAR S 1.9125 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under 4 MCAR S 1.9123 and shall affirm that the opinion expressed is in conformity with those requirements.

4 MCAR S 1.9136 Insurers which are not required to file their first audit on June 30, 1982. Notwithstanding the provisions of 4 MCAR S 1.9124 A.-F., an insurer which is not required pursuant to Minnesota Statutes, section 60A.13, subdivision 3a to file its first audit with the commissioner on June 30, 1982, may for its annual filing due on or before June 30, 1983, file:

A. A report of an independent certified public accountant;

B. A balance sheet reporting admitted assets, liabilities, capital and surplus;

C. Any notes to financial statements. These notes shall be those required by generally accepted accounting principles and shall include:

1. a reconciliation of differences, if any, between the

audited statutory financial statements and the annual statement filed under Minnesota Statutes, section 60A.13, subdivision 1 with a written description of the nature of these differences; and

2. a narrative explanation of all significant intercompany balances.

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DEPARTMENT OF COMMERCE
INSURANCE DIVISION

Rules Governing Automobile Accident Reparations Arbitration
4 MCAR §§ 1.9180-1.9188

§ 1.9180 Authority. The rules and regulations hereinafter set forth are promulgated under the authority of Minn. Stat. § 65B.53, subd. 4.

§ 1.9181 Purpose and scope. These rules are designed to promote efficient settlement of claims involving economic loss between reparation obligors. As a condition precedent to arbitration, however, local representatives of the involved reparation obligors must make a sincere effort to settle controversies by direct negotiation.

§ 1.9182 General.

A. These rules shall be considered applicable to controversies arising out of accidents, insured events, or losses involving a commercial vehicle under the jurisdiction of the MNFAIA, § 65B.53 giving subrogation or direct action recovery rights to reparation obligors for payments or benefits paid to insureds or third parties under such statute.

B. These rules shall not be construed to create any causes of action or liabilities not existing in law or equity.

C. These rules are applicable to controversies involving reparation obligors as that term is defined in Minn. Stat. § 65B.43, subd. 9. The interest of other parties may not be arbitrated under these rules. The fact that such parties may be insureds of reparation obligors does not alter this prohibition.

D. The monetary limits and extent of a reparation obligor's claim shall be governed by Minn. Stat. § 65B.53, subd. 1.

E. Where a claim under these rules is also under the compulsory jurisdiction of other industry agreements sponsored by the Committee on Insurance Arbitration, the jurisdiction of these rules is primary.

F. Any determination as to whether a reparation obligor is legally entitled to recovery from another reparation obligor shall be made by an arbitration panel appointed under the authority of these rules.

G. Compulsory arbitration under these rules does not apply to a controversy arising from an out-of-state accident where the party receiving benefits has a right to proceed at law for full recovery of his tort loss.

H. Under these rules the Committee on Insurance Arbitration is authorized:

1. to select places where arbitration facilities are to be available;

2. to make appropriate rules and regulations to apportion equitably among reparation obligors the operating expenses of the arbitration program set out under these rules.

I. Arbitration committees shall be appointed by the Committee on Insurance Arbitration from full-time salaried representatives of reparation obligors and shall function in the following manner:

1. members of arbitration committees shall be selected on the basis of their experience and qualifications and they shall serve without compensation;

2. no arbitrator shall serve on a panel hearing case in which his company is directly or indirectly interested;

3. the decision of the majority or an arbitration panel is final and binding upon the parties to the controversy without the right of rehearing.

J. In arbitration proceedings and practice, the reparation obligor which initiates the proceeding by filing a request for arbitration shall be known as the "applicant"; and the reparation obligor or reparation obligors against which such controverted claim or issue was asserted shall be known as "respondent(s)".

K. Submission of a case to arbitration under these rules shall have the same force and effect as to reparation obligors with regards to the applicable Statute of Limitations as if litigation has been instituted; further, if a matter within the compulsory provisions of these rules is inadvertently placed in litigation, the discontinuance of such litigation for the purpose of arbitration will be considered as a submission to arbitration with regards to the applicable Statute of Limitations as of the date such litigation was instituted.

L. Where reparation obligors are also signatory to other industry arbitration programs sponsored by the Committee on Insurance Arbitration and the claim is within the compulsory jurisdiction of these other agreements, the signatory companies waive their rights to proceed separately under the other programs. Reparation obligors may, by mutual agreement, include all claims arising out of the same accident or insured event for disposition by an arbitration panel under these rules, provided, however, that hearing of a matter pending before an arbitration panel under these rules will be deferred because of pending claims or suits arising out of the same accident, occurrence or insured event, unless the involved companies waive such deferment in writing.

M. Deferment of a hearing under 4 MCAR § 1.9182 L. does not relieve a respondent reparation obligor from the obligation to file its written answer asserting therein any affirmative defense to the jurisdiction of the panel to proceed with a hearing once the subject case has been removed from a deferred status. If the jurisdiction issue is raised by the written answer, the

committee will forthwith pass upon the merits of the jurisdictional question even though the hearing on the issues of liability and damages will be deferred because of pending companion claims or suits not subject to arbitration. However, for the rule to apply, an arbitration committee must receive the applicant's filing 120 days prior to the running of the Statute of Limitations and receive the respondent's answer within 60 days thereof. If the respondent's answer is not received within the stated period, any affirmative defense running to the jurisdiction of the Committee to proceed with a hearing is waived.

N. Where there are companion claims arising out of the same accident arbitrated together pursuant to 4 MCAR § 1.3182 L. only one filing is necessary to determine the issue of liability as to the drivers of the respective vehicles. A panel's decision on this issue is res judicata on the liability issue in all companion matters involving the same companies within the jurisdiction of these rules, except as to special defenses arising in the companion claim or suit.

§ 1.9183 Organization.

A. Reparation obligors of commercial vehicles shall furnish the Committee on Insurance Arbitration on request, a list of names, titles and local addresses of all employees who are qualified to act as arbitrators.

B. The Chairman of the Arbitration Committee shall designate one disinterested member of said Committee to serve as a panel of arbitration in each case. However, three members will constitute a panel if requested by a controverting party in a specific case.

§ 1.9184 Jurisdiction. Compulsory arbitration under these rules applies to controversies arising out of accidents, insured events or occurrences within this state involving commercial vehicles. Controversies arising from accidents, insured events or occurrences involving commercial vehicles outside this state can be submitted with the consent of the controverting reparation obligors.

§ 1.9185 Filing assessments.

A. The Committee on Insurance Arbitration by resolution will prescribe the filing assessment for the use of local arbitration facilities.

B. The obligation for the prescribed filing assessment is incurred upon filing but payment by the applicant reparation obligor to the Committee on Insurance Arbitration is deferred until the case is closed, either through hearing, settlement, or withdrawal prior to hearing. The prescribed filing assessment shall also be paid in the same manner by a respondent reparation obligor that files a counterclaim. There is no exception to a reparation obligor's obligation to pay the filing assessment.

C. The Secretary of the Committee on Insurance Arbitration is the custodian of the assessment charges collected by him and shall make expenditures

therefrom to defray such arbitration expenses as may be authorized by the Committee on Insurance Arbitration.

D. The Secretary of the Committee on Insurance Arbitration will submit reports on assessments collected and disbursed during such period as may be considered desirable by the Committee on Insurance Arbitration.

§ 1.9186 Procedure.

A. An arbitration proceeding is commenced by the local representative of a reparation obligor filing an "Arbitration Notice" (three copies) with the Secretary of the local arbitration committee. At the same time three copies of the "Arbitration Notice" are to be submitted by the applicant directly to the local representative of the other involved reparation obligor. If there is more than one respondent reparation obligor in a case, the applicant shall so indicate on the original and all copies of the "Arbitration Notice" and send three copies thereof to each respondent reparation obligor.

B. Notice by applicants shall set forth the following information:

1. names of applicant and respondent reparation obligor together with names and addresses of local representatives having supervision over the case in controversy;

2. name and address of respondent reparation obligor's insured;

3. claim file numbers of applicant and respondent, if known;

4. date and place of alleged accident, loss or other insured event;

5. amount of reparation obligor's claim payment and amount of any other expenses for which indemnity is requested;

6. certification that settlement efforts have been unsuccessful;

7. brief statement of allegation solely as to the issue in controversy;

8. signature of applicant's representative and date signed.

C. Answers filed by respondent shall set forth the following information:

1. supplement, if and as necessary, the information furnished by applicant as to respondent reparation obligor's name, local representative, address, name of insured, file number of kind of policy coverage;

2. whether there is an objection to arbitration, and, if so, the grounds on which the objection is based should be fully stated;

3. brief statement of allegation as to the issue in controversy;

4. signature of respondent's representative and date signed.

D. The respondent has thirty days after the applicant's filing in which to file a written answer. If a respondent fails to submit its answer within thirty days after an applicant reparation obligor files with a committee, it is presumed that the applicant's claim has been denied and the case is ready for hearing on the issues. Failure to file an answer will not operate to delay the arbitration hearing. However, if affirmative defenses are available to the respondent, and are not asserted by answer prior to notice of hearing, the applicant, on request, will be entitled to an adjournment to investigate such affirmative defenses.

E. The procedure set out in the preceding paragraphs of this section is also applicable to counterclaims for damages which may be submitted for arbitration pursuant to 4 MCAR § 1.3182 L. The "Arbitration Notice" should clearly indicate that it is submitted as a counterclaim and the original arbitration case to which it pertains shall be plainly identified.

§ 1.9187 Hearings.

A. When the Secretary has received the essential facts and contentions from the controverting reparation obligors, the issue in the case shall be scheduled for a hearing by the Arbitration Panel at the earliest practicable date.

B. Hearing date shall be determined by the Chairman of the Arbitration Panel, and one or more cases may be considered at any scheduled hearing.

C. Representatives of controverting parties shall be notified by the Secretary of the time and place of a scheduled hearing at least two weeks in advance of the hearing date. Notice of hearing shall be sent by certified mail, return receipt requested, to any respondent which has not filed a written answer.

D. Adjournments may be granted for cause by the Chairman of the Arbitration Committee or his designee.

E. Evidence which controverting parties desire to submit in support of their allegations shall be made available for examination by the arbitrators at the hearing. Such evidence may also be examined by the opposing parties at the hearing. If one of the controverting parties fails to produce evidence at a scheduled arbitration hearing, after due notice thereof, the arbitrators may at their discretion consider the information in the "Arbitration Notice" of such party and render a decision accordingly.

F. Procedure at Arbitration Panel Hearings shall be informal. Controverting parties are expected to present the facts of their respective cases in a brief, frank and direct manner.

G. The controverting parties shall submit for consideration to the arbitrators, briefs of the law involved when requested by the arbitration panel hearing the case.

H. Controverting parties may present witnesses at an arbitration hearing, if considered necessary, after notice to the other interested party or parties sufficiently in advance of the hearing date to permit such other party or parties also to present witnesses if desired.

I. Controverting parties may, if they so desire, be represented at arbitration hearings by members of their staff or by anyone employed or retained by them.

J. Documentary evidence submitted by controverting parties shall be left with the arbitrators for their scrutiny and consideration while reaching a decision.

K. If representatives of controverting parties attend an arbitration hearing, they must withdraw after presentation of their cases and may not be present while the arbitrators are considering their decision.

§ 1.9188 Decisions.

A. Arbitration panels may, upon their own initiative, render a decision in favor of a respondent company without production of evidence by such respondent, if the panel unanimously agrees following presentation of the applicant's evidence that such applicant has not made out a prima face case.

B. A decision of an arbitration panel on issues of fact or law is final and binding. However, a local committee's Chairman is not precluded from correcting a clerical, typographical or jurisdictional error on the part of a local committee's staff, provided it is called to the local committee's attention in writing by one of the arbitrating reparation obligors within 30 days after publication of the decision; or if recognized by the local committee without notice from the arbitrating reparation obligors within 30 days after publication of the decision; provided further, that the correction be made in either event within 60 days after publication of the decision.

C. The law of the locality in which the accident, insured event, or loss occurred will control the decision on questions of liability. A finding as to the amount of damages in issue shall be based upon the facts presented to the arbitrators.

D. The amount paid shall not be at issue unless pleaded specifically.

E. Decisions of the arbitrators shall be promptly rendered after consideration of the case, and the evidence submitted by the controverting parties shall be returned promptly.

F. The arbitrators shall prepare a written decision in each case, copies of which shall be distributed by the Secretary as follows: One copy will be retained by the arbitration panel secretary; one copy shall be furnished to each party involved in the arbitration, and the original shall be furnished to the Committee on Insurance Arbitration.

G. The decisions of the arbitration panel shall include the following minimum information:

1. date and place of hearing;

2. names of panel members;

3. names of applicant and respondent carriers and names of their respective insureds;

4. names of respective controverting party representatives, if any, attending the hearing;

5. brief description of the claim or controversy and amount involved therein;

6. names of controverting insurance carrier in whose favor an award is rendered and the amount thereof;

7. brief statement of the basis for the finding, such as lack of proof, contributory negligence, or other controlling principles of law;

8. signature of the arbitrator who prepared the decision.

H. Decisions of an arbitration panel shall be complied with as soon as practicable. Any unwarranted delay on the part of the parties concerned should be reported to the Committee on Insurance Arbitration by the prevailing party.

§ 1.9195 Legible type face styles.

A. Authority. The rules hereinafter set forth are promulgated pursuant to Minn. Stat. § 72C.07 (1977).

B. Purpose. The purpose of this rule is to provide insurance policies which are printed in type face styles that are easily readable to the average person.

C. General.

1. These rules shall be considered applicable in all insurance policies and contracts required to be filed under Minn. Stat. § 72C.11.

2. All insurers upon filing shall specify the type face styles used in each policy. The Commissioner will consider the following type face styles as being legible:

Aldine	Korinna
Baskerville	Modern Roman
Bodoni	Megaron
Bodoni Book	Melior
Century	Metro
Century Schoolbook	News Gothic
Chelmsford	Optima
Copperplate	Press Roman
Clarendon	Pyramid
Fairfield	Schoolbook
Futura	Sparton
Garamond	Theme
Gothic	Times Roman
Helios	Trade Gothic
Helvetica	Univers
Journal	Universe

This list is not intended to be exhaustive but is intended solely as an indication of the legibility of a type face style that is required. Any type face selected that meets the same standard of legibility will be approved. Extreme type styles such as "Old English" or heavy block are not acceptable.

3. Italics, bold face, and contrasting styles may be used to emphasize important or technical terms and for captions. When 2 or more type face styles are used, they shall be visually compatible.

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4 MCAR S 1.9251 Authority and scope.

Rules 4 MCAR SS 1.9251 through 1.9253 apply to all policies and subscriber contracts issued or provided by an insurance company, non-profit service plan corporation or health maintenance organization on a group basis, and are promulgated pursuant to the authority of Minnesota Statutes, section 60A.082.

4 MCAR S 1.9252 Definitions.

For purposes of these rules "carrier" shall mean any insurance company as defined in Minnesota Statutes, section 60A.02, subdivision 4; any service plan corporation as defined in Minnesota Statutes, section 62C.02, subdivision 6; and any health maintenance organization as defined in Minnesota Statutes, section 62D.02, subdivision 4.

4 MCAR S 1.9253 Continuation of coverage in situations involving replacement of one carrier by another.

A. Purpose. The purpose of this rule is to indicate which carrier is responsible for coverage in those cases where one carrier's plan of benefits replaces a prior plan which offered similar benefits.

B. Liability of the prior carrier. The prior carrier remains liable to the extent of its accrued liability and extension of benefits pursuant to its existing contractual liability at the time of replacement.

C. Liability of the succeeding carrier.

1. Each individual who is eligible under the succeeding carrier's plan, with respect to provisions regarding class eligibility, activity at work, and non-confinement, shall be covered by the succeeding carrier's plan of benefits as of the effective date of that plan.

2. Each individual who is not eligible for coverage in accordance with 4 MCAR S 1.9252 C.1. shall nevertheless be covered by the succeeding carrier in accordance with the following rules, provided that such individual (including an individual who has exercised the option for extension of benefits pursuant to Minnesota Statutes, sections 62A.148 and 62A.17) was validly covered under the prior plan on the date it was discontinued and such individual is a member of a class of individuals otherwise eligible for coverage under the succeeding carrier's plan.

a. The minimum level of benefits which shall be provided by the succeeding carrier shall be the lesser of:

- (1) The benefits available under the prior carrier's

plan reduced by any benefits payable by the prior carrier; or

(2) The benefits available under the succeeding carrier's plan.

b. Coverage shall be provided by the succeeding carrier pursuant to 4 MCAR S 1.9252 C.2. at least until the earlier of the following dates:

(1) The date the individual becomes eligible under the terms of the succeeding carrier's plan; or

(2) The date the individual's coverage would otherwise terminate, for each type of coverage, in accordance with the individual termination of coverage provisions of the succeeding carrier's plan.

3. Each individual subject to a pre-existing condition limitation contained in the succeeding carrier's plan shall nevertheless be covered by the succeeding carrier, provided that such individual was validly covered under the prior plan on the date it was discontinued. The minimum level of benefits which shall be provided by the succeeding carrier for a pre-existing condition shall be the lesser of:

a. The benefits of the new plan determined without regard to the pre-existing condition limitation; or

b. The benefits of the prior plan.

4. In applying any deductible or waiting period in its plan, the succeeding carrier shall give credit for the full or partial satisfaction of the same or similar provisions under the prior plan. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods, to the extent the same expenses are recognized under the terms of the succeeding carrier's plan and are subject to a similar deductible provision.

5. In any situation where a determination of the prior carrier's benefits is required by the succeeding carrier, at the succeeding carrier's request the prior carrier shall furnish a statement of the benefits available and other pertinent information sufficient to permit the succeeding carrier to verify or determine benefits.

6. Benefits of the prior plan shall be determined in accordance with the definitions, conditions, and covered expense provisions of the prior plan rather than those of the succeeding plan.

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4 MCAR S 1.9255 - 1.9270

Department of Commerce
Insurance Division

Rules Governing
Self-Insurance for Workers' Compensation

4 MCAR § 1.9285 Authority. Rules 4 MCAR §§ 1.9285-1.9294 are promulgated under the authority of Minn. Stat. § 176.181, subd. 2 (Laws of 1979, Spec. Ses. ch. 3 § 50).

4 MCAR § 1.9286 Purpose and scope. These rules are designed to assure that the self-insurance plans are financially solvent, administered in a fair and capable fashion, and able to process claims and pay benefits in a prompt, fair and equitable manner; and to allow the commissioner to authorize qualified entities to engage in such business in a manner which is fair, equitable and consistent with the Workers' Compensation Act.

4 MCAR § 1.9287 Definitions.

A. "Certified Audit" or "Certified Financial Statement" means an audit or financial statement upon which an independent certified public accountant expresses his professional opinion that the accompanying statements present fiarly the financial position of the self-insurer or fund in conformity with generally accepted accounting principles and generally accepted auditing standards consistently applied.

B. "Commissioner" means the Commissioner of Insurance.

C. "Current Ratio" means the ratio of current assets to current liabilities in the most recent financial statement.

D. "Fund" means Self-Insurer's Fund.

E. "Affiliated Company" means any company that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the applicant company.

F. "Modified Premium" shall mean the total manual premium as defined in the Workers' Compensation Insurers Rating Association's manual of rules, classification, and rates approved for use in Minnesota, modified by an experience rating plan approved by the commissioner, pursuant to Minn. Stat. § 79.071.

G. "Self-Insurer's Fund" means any monetary fund or account created by a group self-insurer to pay workers' compensation claims due under the Workers' Compensation Act.

H. "Self-Insurer" means both individual and group self-insurers unless the context clearly indicates a more restrictive definition.

I. "Workers' Compensation Service Company" shall mean an entity which has obtained a license from the commissioner pursuant to 4 MCAR § 1.9294 to contract with self-insurers for the purpose of providing services necessary to plan and maintain an approved self-insurance program. An employer that has been granted the authority to self-insure pursuant to 4 MCAR § 1.9291 and administers its own self-insurance program shall be deemed a duly licensed workers' compensation service company for the purposes of servicing a self-insurance program of any affiliated company.

J. "Workers' Compensation Reinsurance Association" shall mean that Association created by Laws of 1979, Spec. Ses. ch. 3, § 17 through 25 (hereinafter referred to as the "WCRA").

K. "Workers' Compensation Act" shall mean Minn. Stat. ch. 176.

L. "Fund Year" for group self-insurers shall mean that period of time which the group self-insurer shall designate for the purposes of collecting premiums from its members and for determining any deficit or surplus; such period of time shall correspond with the fiscal year of the group. Any claim arising within the accident year upon which the fund year is based shall be included in that fund year.

M. "Control", including the terms "controlling", "controlled by" and "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person.

N. "Surplus" as regards the Group Self-Insurer's Fund shall mean the excess of all fund monies over the amount necessary to fulfill all obligations under the Workers' Compensation Act for all fund years that the group has been in operation.

O. "Deficit" as regards the Group Self-Insurer's Fund shall mean the excess of the amount necessary to fulfill all obligations under the Workers' Compensation Act for all fund years that the group has been in operation over all fund monies.

P. "Classification" shall mean the manual classification as determined by the Workers' Compensation Insurers Rating Association's manual of rules, rates and classifications approved for use in Minnesota by the commissioner, pursuant to Minn. Stat. § 79.071.

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4 MCAR § 1.9288 Acceptable securities and surety bonds.

A. Acceptable securities and surety bonds for the purposes of 4 MCAR § § 1.9291 G. and 1.9292 H. shall be:

1. U. S. Government bonds;

2. Any bonds or securities which are issued by the State of Minnesota and which are secured by the full faith and credit of this state;

3. Certificates of deposit issued by a bank in the State of Minnesota, which has deposits insured by the Federal Deposit Insurance Corporation;

4. Savings certificates issued by any savings and loan association in the State of Minnesota which has deposits insured by the Federal Savings and Loan Insurance Corporation;

5. Surety bonds issued by a corporate surety authorized by the commissioner to transact such business in the State of Minnesota;

6. Any guarantee from the United States government whereby the payment of the workers' compensation liability of a self-insurer is guaranteed.

B. All securities shall be deposited with the State Treasurer and surety bonds shall be filed with the commissioner. The commissioner and the State Treasurer shall be authorized to sell and/or collect, in the case of default of the employer or fund, such amount thereof as shall yield sufficient funds to pay compensation due arising pursuant to the Workers' Compensation Act.

C. Securities must bear the following assignment which shall be signed by an officer, partner, or owner: Assigned to the State of Minnesota for the benefit of injured employees of the self-insured employer under the Minnesota Workers' Compensation Act.

D. Interest accruing on any negotiable securities so deposited shall be collected and transmitted to the depositor, provided that the depositor is not in default in payment of compensation, premiums due to WCRA, or any assessments levied by the Department of Labor and Industry under Minn. Stat. § 176.131.

E. All surety bonds shall conform to the bond form set forth in Appendix I.

F. All deposits and surety bonds shall remain in the custody of the State Treasurer or the commissioner for a period of time as the applicable Statute of Limitations provided in the Workers' Compensation Act dictates.

G. No securities on deposit with the State Treasurer shall be released without an order from the commissioner.

H. Any securities deposited with the State Treasurer or surety bonds held by the commissioner may be exchanged or replaced by the depositor with other acceptable securities or surety bonds of like amount so long as the market value of the

securities or amount of the surety bond equals or exceeds the amount of deposit required. If securities are replaced by a surety bond the self-insurer must maintain securities on deposit in an amount sufficient to meet all outstanding workers' compensation liability arising during the period covered by the deposit of the replaced securities subject to the limitations on maximum security deposits established in 4 MCAR S 1.9291 G. and 4 MCAR S 1.9292 H.

AR 00855T

4 MCAR S 1.9289 Filing of reports.

A. Incurred losses, paid and unpaid, specifying both indemnity and medical losses by classification, and payroll by classification, and current estimated outstanding liability for workers' compensation shall be reported to the commissioner by each self-insurer on a calendar year basis, in a manner and on forms available from the commissioner. Payroll information must be filed by April 1 of the following year, and loss information and total workers' compensation liability must be filed by August 1 of the following year.

B. Each self-insurer shall under oath, attest to the accuracy of each report submitted pursuant to subdivision A above. Upon sufficient cause, the commissioner shall require the self-insurer to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors: where the losses reported appear significantly different from similar type businesses, where major changes in the reports exist from year to year which are not solely attributable to economic factors, or where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of that employer. If any discrepancy is found, the commissioner shall require changes in the self-insurer's or workers' compensation service company record keeping practices.

C. Each self-insurer shall report to the commissioner any workers' compensation claim from the previous year where the full, undiscounted value is estimated to exceed $50,000 with the annual loss report due August 1 and in a manner and on forms prescribed by the commissioner.

D. Each individual self-insurer shall, within four months after the end of its fiscal year, annually file with the commissioner its latest 10K Report required by the Securities and Exchange Commission. If an individual self-insurer does not prepare a 10K Report, it shall file an annual certified financial statement, together with such other financial information as the commissioner may require to substantiate data in the financial statement.

E. Each group self-insurer shall, within four months after the end of the fiscal year for that group, annually file a statement showing the combined net worth of its members based upon an accounting review performed by a certified public accountant together with such other financial information the commissioner may require to substantiate data in the group's summary statement. This subdivision shall not apply if the applicable financial requirements have been waived pursuant to 4 MCAR S 1.9292 R.

F. In addition to the financial statements required by subdivisions D and E above, interim financial statements, or 10Q Reports required by the Securities and Exchange Commission may be required by the commissioner upon an indication that there has been deterioration in the self-insurer's financial condition, including a worsening of current ratio, lessening of net worth, net loss of income, the downgrading of the company's bond rating, or any other significant change that may adversely affect the self-insurer's ability to pay expected losses. Any self-insurer which files an 8K Report with the Securities and Exchange Commission shall also file a copy of the report with the commissioner within thirty (30) days of the filing with the Securities and Exchange Commission.

4 MCAR § 1.9290 Revocation of self-insurance authority. The following shall constitute grounds for revocation of the authority to self-insure:

A. Failure to comply with 4 MCAR § § 1.9285-1.9293;

B. Failure to comply with any lawful order of the commissioner;

C. Failure to comply with any provision of the Workers' Compensation Act;

D. A deterioration of financial condition adversely affecting the self-insurer's ability to pay expected losses, including a worsening of the current ratio, a lessening of net worth, a net loss of income, or the failure of the self-insurer to meet the net worth standards of 4 MCAR § § 1.9291 C. or 1.9292 C.;

E. Committing an unfair or deceptive act or practice as defined in Minn. Stat. § 72A.20;

F. Failure to abide by the Plan of Operation of the WCRA.

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4 MCAR § 1.9291 Requirements for individual self-insurers.

A. Each employer desiring to self-insure individually shall apply to the commissioner on forms available from the commissioner. The commissioner shall grant or deny the application within thirty (30) days after a complete application is filed. Such time limit may be extended for another thirty (30) days upon fifteen (15) days prior notice to the applicant. Any grant of authority to self-insure shall continue in effect until revoked by order of the commissioner or until such time as the employer becomes insured.

B. Each application for self-insurance shall be accompanied by a certified financial statement. Certified financial statements for a period ending more than six (6) months prior to the date of the application must be accompanied by an affidavit signed by a company officer under oath stating that there has been no material lessening of the net worth nor other adverse changes in its financial condition since the end of the period.

C. Each individual self-insurer shall have and maintain a net worth at least equal to the greater of ten (10) times the retention limit selected with the

WCRA or one third (1/3) the amount of the self-insurer's current annual modified premium. The requirements of this subdivision shall be modified if the self-insurer can demonstrate through a reinsurance program, other than coverage provided by the WCRA, that it can pay expected losses without endangering the financial stability of the company.

D. Each individual self-insurer shall have and maintain sufficient assets, net worth and liquidity to promptly and completely meet all of its obligations that may arise under the Workers' Compensation Act. In determining whether a self-insurer meets this requirement the commissioner shall consider: the self-insurer's current ratio; its long-term and short-term debt to equity ratios; its net worth, financial characteristics of the particular industry in which the self-insurer is involved; any recent changes in the management and ownership of the company; any excess insurance purchased by the self-insurer from a licensed company or an authorized surplus line carrier, other than excess insurance from the WCRA; any other financial data submitted to the commissioner by the company; and the company's workers' compensation experience for the last four (4) years.

E. Where an employer seeking to self-insure fails to meet the financial requirements set forth in C. and D. above, the commissioner shall grant authority to self-insure provided that an affiliated company, whose financial statement is filed with the commissioner and meets the requirements set forth in C. and D. above, provides a written guarantee adopted by resolution of its board of directors that it will pay all workers' compensation claims incurred by its affiliate, and that it will not terminate the guarantee under any circumstances without first giving the commissioner and its affiliate thirty (30) days written notice. If said guarantee is withdrawn or if the guarantor ceases being an affiliate, the affiliate shall give written notice to the commissioner and the self-insured and the self-insured's authority to self-insure shall automatically terminate upon expiration of the thirty (30) day notice period.

F. Each individual self-insurer shall agree to fully discharge by cash payment or other form of benefit approved by the Department of Labor and Industry, all amounts required to be paid by the provisions of the Workers' Compensation Act.

G. Each individual self-insurer shall be required to deposit acceptable securities or surety bonds in an amount equal in value to:

1. For an employer who has been self-insured for at least two (2) years and specifically identifies in its financial statement its outstanding workers' compensation liability the greater of:

a. $100,000 or

b. total outstanding workers' compensation liability not to exceed $500,000.

2. For an employer who has been self-insured for at least two (2) years

and does not specify in its financial statement its outstanding workers' compensation liability either:

a. $1,000,000 or

b. total outstanding workers' compensation liability if certified by an actuary who is an associate member of the Casualty Actuarial Society, provided that the deposit shall be at least $100,000.

3. For an employer who has been self-insured less than two (2) years and has specifically identified in its financial statement its outstanding workers' compensation liability the greater of:

a. $100,000 or

b. 70% of the employer's estimated current modified premium, or

c. outstanding workers' compensation liability, not to exceed $500,000.

4. For an employer who has been self-insured for less than two (2) years and does not spedify in its financial statement its outstanding workers' compensation liability the greater of:

a. $100,000

b. 70% of the employers' estimated current modified premium, or

c. outstanding workers' compensation liability, not to exceed $1,000,000.

H. No deposit shall be required of a self-insurer that has had its workers' compensation liability guaranteed pursuant to E. above, provided that the affiliated company is required to make a deposit and the self-insurer's outstanding workers' compensation liability are included in the determination of the affiliate's deposit.

I. Each individual self-insurer shall administer insurance claims in a fair and equitable manner.

J. Each individual self-insurer shall designate those employees who will administer its self-insurance program, and shall specify their qualifications to engage in the administration of the self-insurance program. If a self-insurer contracts with another entity for the administration of its program, including adjustments of claims, or administration of loss control or safety engineering programs, the self-insurer shall only contract with a workers' compensation service company duly licensed for those specific areas of program administration.

K. When a self-insurer is sold to, or merged with, another entity, the self-

insurer shall give notice to the commissioner within 30 days of the sale or merger. At that time the new owner shall file a consolidated financial statement, and the commissioner shall have the discretion to revoke the employer's authority to self-insure if the consolidated financial statement does not meet the requirements of C. and D. above. The burden shall be on the new owner to qualify pursuant to this rule.

L. Any employer whose workers' compensation liability has been guaranteed by the Federal Government shall not be required to file a certified financial statement pursuant to B. of this rule, provided that on termination of any such guarantee the employer's authority to self-insure shall be void.

M. Any individual self-insurer that voluntarily terminates its self-insurance authority shall give notice to the commissioner not less than 30 days before the termination is to occur.

4 MCAR § 1.9292 Requirements for group self-insurers.

A. Two or more employers in the same industry may apply to the commissioner for the authority to self-insure as a group on forms available from the commissioner. This initial application shall be accompanied by a copy of the bylaws or plan of operation adopted by the group. Such bylaws or plan of operation shall conform to the conditions prescribed by 4 MCAR §§ 1.9292 and 1.9293. The commissioner shall approve or disapprove the bylaws within thirty (30) days unless a question as to the legality of a specific bylaw or plan provision has been referred to the Attorney General's office. The commissioner shall make a determination as to the application within fifteen (15) days after receipt of the requested response from the Attorney General's office.

B. After the initial application and the bylaws or plan of operation have been approved by the commissioner, or at the time of the initial application the group shall submit: the names of employers that will be members of the group; an indemnity agreement providing for joint and several liability for all group members for any and all workers' compensation claims incurred by any member of the group as set forth in Appendix II signed by an officer of each member; and an accounting review performed by a certified public accountant. A certified financial audit may be filed in lieu of an accounting review.

C. A group proposing to self-insure shall have and maintain:

1. A combined net worth of all of the members of at least equal to the greater of ten (10) times the retention selected with the WCRA or one-third (1/3) of the current annual modified premium of the members. The requirements of this subdivision shall be modified if the self-insurer can demonstrate that through excess insurance, other than coverage provided by the WCRA, that it can pay expected losses.

2. Sufficient assets, net worth, and liquidity to promptly and completely meet all obligations of its members under the Workers' Compensation Act. In determining whether a group is in sound financial condition, consideration shall be given to: the combined net worth of the member companies; the consolidated long-term and short-term debt to equity ratios of the member companies; the particular industry that the member companies are en-

gaged in; any excess insurance other than reinsurance with the WCRA, purchased by the group from an insurer licensed in Minnesota or from an authorized surplus line carrier; other financial data requested by the commissioner or submitted by the group; and the combined workers' compensation experience of the group for the last four (4) years.

E. The commissioner shall grant or deny the group's application to self-insure within thirty (30) days after a complete application has been filed, provided that such time may be extended for an additional thirty (30) days upon fifteen (15) days prior notice to the applicant. Upon a determination that: the financial ability of the self-insurer's group is sufficient to fulfill all joint and several obligations of the member companies which may arise under the Workers' Compensation Act; the gross annual premium of the group members is at least three hundred thousand dollars ($300,000); the group has established a fund pursuant to 4 MCAR § 1.9293; the group has contracted with a licensed workers' compensation service company to administer its program; the required securities or surety bond shall be on deposit prior to the effective date of coverage for any member; and all of the member companies are engaged in the same industry; the commissioner shall grant approval for self-insurance. Such approval shall be effective until revoked by order of the commissioner or until the employer members of the group become insured.

F. Each group self-insurer shall contract with a workers' compensation service company licensed pursuant to 4 MCAR § 1.9294 to administer its program or employ such personnel that will qualify the group as a licensed workers' compensation service company. The service company shall have the sole authority to make claim and reserve determinations regarding injured workers of the member employers.

G. Each group self-insurer shall establish a group self-insurer's fund pursuant to 4 MCAR § 1.9293, which shall be administered by the board of directors of the group.

H. Prior to the providing of coverage to any member company, a group self-insurer shall deposit acceptable securities or surety bonds in an amount equal to 70% of the members' current modified premium plus the amount payable to the service company under the service contract; provided that, the deposit required shall not be greater than five hundred thousand dollars ($500,000). After the group self-insurer has been in existence for two (2) years the deposit shall be an amount equal to the outstanding workers' compensation liability of the group subject to a maximum of five hundred thousand dollars ($500,000).

I. An employer must belong to the group for at least one year. If a member voluntarily terminates its membership in a group during the second or third year of membership, the group self-insurer shall assess the following member at least the following penalties: 25% of the premium due from that member for that year if termination occurs within the second year of membership and 15% of the premium due from that member for that year if termination occurs within the third year. No penalty shall be required if an employer's withdrawal is due to merger, dissolution, sale of the company or change in the type of business so that it is no longer engaged in the same industry as the rest of the employers of the group. Following the completion of three consecutive years of membership in the group, withdrawal from the group shall be allowed without penalty, provided that ninety (90) days advance written notice is given to the board of directors of the group, and the group's plan of operation or bylaws allow such withdrawal without a penalty. Any penalty assessed pursuant to this subdivision shall be paid to the group's self-insurer's fund.

J. Upon receipt of any notice of a member to withdraw or a decision by the board of directors to expel a member, the group self-insurer shall give immediate notice to the commissioner, and then, as soon as practicable, reevaluate its net worth and financial condition. If the consolidated net worth or financial condition of the group, excluding the terminating or expelled member, fails to meet the requirements specified in C. above, the group shall so notify the commissioner within fifteen (15) days and advise the commissioner of its plan for bringing the group into compliance with C. above.

K. The group self-insurer shall file with the commissioner the name of all employer members accepted into the group. The group shall not accept any liability for a new member until a signed indemnity agreement in the form set forth in Appendix II has been completed by that new member and filed with the commissioner.

L. Each group self-insurer shall be prohibited from accepting as a member any employer that owes an outstanding debt to a previous group self-insurer. A judgment obtained under the laws of Minnesota shall be required as proof of such debt. If a group has such an employer member, upon receipt of the required proof, the fund administrator shall issue thirty (30) days notice of cancellation to the member.

M. The directors of each group self-insurer shall cause to be adopted a set

of bylaws or plan of operation which shall govern the operation of the group. All bylaws or plans of operation or amendments thereto, shall be subject to prior approval by the commissioner, pursuant to 4 MCAR § 1.9292 A.

1. These bylaws or plans of operation shall contain the following subjects:

a. Qualifications for group self-insurer membership, including underwriting considerations.

b. The method for selecting the board of directors, including the directors' terms of office.

c. The procedure for amending the bylaws or plan of operation.

d. Investment of all assets of the fund.

e. Frequency and extent of loss control or safety engineering services provided to members.

f. A schedule for payment and collection of premiums.

g. Expulsion procedures, including expulsion for nonpayment of premiums and expulsion for excessive losses.

h. Delineation of authority granted to the administrator.

i. Delineation of authority granted to the service company.

j. Basis for determining premium contributions by members including any experience rating program.

k. Procedures for resolving disputes between members of the group, which shall not include submitting them to the commissioner.

l. Basis for determining distribution of any surplus to the members, or assessing the membership to make up any deficit.

2. The directors shall review at least annually the following items for the purpose of determining whether these areas of concern are being adequately provided for:

a. Service company performance.

b. Loss control and safety engineering.

c. Investment policies.

d. Collection of delinquent debts.

e. Expulsion procedures.

f. Initial member review.

g. Administrator performance.

h. Claims handling and claims reporting.

3. All group self-insurers shall file copies of its current bylaws or plan of operation with the commissioner. Any changes in the bylaws or plan of operation shall be filed with the commissioner no later than thirty (30) days prior to their taking effect. The commissioner reserves the right to order the group self-insurers to rescind or revoke any bylaw or plan of operation if it is in violation of 4 MCAR §§ 1.9285 to 1.9294 or any law.

N. All group self-insurers shall maintain at a location within the State of Minnesota such records as are necessary to verify the accuracy and completeness of all reports submitted to the commissioner pursuant to 4 MCAR §§ 1.9285 to 1.9294. However, the group self-insurers shall be authorized to transfer its financial records to the offices of the certified public accountant for the group self-insurers upon the written permission of the commissioner. In addition, if the group self-insurer has contracted with a service company for claims handling, then the claims files and related records may be located at the offices of the service company. The location of these records shall be designated with the application for self-insurance authority and thereafter shall be provided to the commissioner through written notice of any change in its location within thirty (30) days of any such change.

O. Failure of any employer to maintain membership in any group while not otherwise procuring insurance for its workers' compensation liability may subject the employer to the penalties provided in Minn. Stat. §§ 176.181 and 176.183.

P. The group self-insurer shall be considered a single entity for the purposes of membership in the WCRA and for the purposes of any assessment levied upon self-insurers pursuant to the Workers' Compensation Act.

Q. The group self-insurer shall not incorporate or form a business trust pursuant to Minn. Stat. ch. 318.

R. The financial requirements of B. and C. of this rule shall be waived if the group self-insurer has purchased aggregate excess insurance from an insurer licensed to do business in the state of Minnesota, and that excess insurance indemnifies all losses of the group self-insurer, other than those reimbursable by the Workers' Compensation Reinsurance Association, in excess of the annual premiums collected by the group less the sum of annual administrative costs, premiums payable to the Workers' Compensation Reinsurance Association and premiums payable to the excess insurer. If aggregate excess insurance is terminated, the service company shall inform the commissioner within two days after receipt of notice of cancellation.

S. Any group self-insurer that voluntarily terminates its self-insurance authority shall give notice to the commissioner not less than 30 days before the termination is to occur.

4 MCAR § 1.9293 Group self-insurer's fund.

A. Each group self-insurer shall, not less than ten (10) days prior to the proposed effective date of the group, submit evidence that cash premiums equal to not less than twenty percent (20%) of the current year's modified workers' compensation insurance premium reduced by any appropriate premium discount for each employer, has been paid into a common claims fund, maintained by the group in a designated depository. The remaining balance of the member's premium, which shall be at least the current year's modified workers' compensation insurance premium reduced by any appropriate pre-

mium discount less the initial cash premium, shall be paid to the group in a reasonable manner over the remainder of the year. Payments in subsequent years shall be made according to the schedule in the manual of rules, classifications and rates approved for use in Minnesota provided that a reduction in the manual premium shall be allowed if based on bonafide savings in the expenses of the group, or an actuary who is a member of the Casualty Actuarial Society certifies that a reduction should be permitted based on the losses of the group and that a deficit has not occurred in any of the last three years. Each group self-insurer shall initiate proceedings against a member when that member becomes more than fifteen (15) days delinquent in any payment of premium to the fund.

B. There shall be no co-mingling of any assets of the group self-insurer's fund with the assets of any individual member employer, or with any other account of the group unrelated to payment of workers' compensation liability incurred by the group.

C. The group self-insurer shall designate a fiscal agent and/or administrator to administer the financial affairs of the fund. Such fiscal agent or administrator shall furnish a fidelity bond with the self-insurer as obligee, in an amount sufficient to protect the fund against the misappropriation or misuse of any monies or securities. Such fiscal agent or administrator shall not be an owner, officer, or employee of the service company or any affiliate of the service company.

D. All funds shall remain in the control of the group self-insurer or its authorized administrator. One or more revolving funds for payment of compensation benefits due may be established for the use of the authorized service company. The service company shall furnish a fidelity bond covering its employees, with the self-insurer as obligee, in an amount sufficient to protect all monies placed in such revolving fund. Should the fidelity bond of the fiscal agent and/or administrator also cover the monies in the revolving fund, the service company shall not be required to furnish a fidelity bond.

E. The accounts and records of the group self-insurer's fund shall be audited annually. Audits shall be made by certified public accountants, based on generally accepted accounting principles and generally accepted auditing standards, and supported by actuarial review and opinion of the future contingent liabilities, in order to determine the solvency of the self-insurer's fund. All audits required by this rule shall be filed with the commissioner ninety (90) days after the close of the fiscal year for the group self-insurer. The commissioner may require a special audit to be made at other times if the financial stability of the fund or the adequacy of its monetary reserves is in question.

F. No director, fiscal agent or administrator of a group self-insurer shall utilize any of the monies collected as premiums for any purpose unrelated to workers' compensation insurance. No director, fiscal agent or administrator shall borrow any money from the self-insurer's fund or in the name of the self-insurer's fund.

G. Cash assets of the self-insurer's fund may be invested as provided in Minn. Stat. § 60A.11 for a casualty insurance company provided that investment in common stock, real estate, or indebtedness from any member company is prohibited. In addition, investment in the following is allowed:

1. Savings accounts or certificates of deposit in a duly chartered commercial bank located within the State of Minnesota and insured through the Federal Deposit Insurance Corporation.

2. Share accounts or savings certificates in a duly chartered savings and loan association located within the State of Minnesota and insured through the Federal Savings and Loan Insurance Corporation.

3. Direct obligations of the United States Treasury, such as notes, bonds, or bills.

4. Any bond or security issued by the State of Minnesota and backed by the full faith and credit of the state.

5. Any credit union where the employees of the self-insurer are members, provided that such credit union is located in Minnesota, licensed by the State of Minnesota, and insured through the Federal Deposit Insurance Corporation.

H. Any securities purchased by the group self-insurer's fund shall be in such denominations, and with dates of maturity to insure that securities may be redeemable at sufficient time and in sufficient amounts to meet the fund's current and long-term liabilities.

I. The self-insurer shall report annually, as part of its financial statement, a schedule showing the disposition of all investment income earned during the immediately proceeding year.

J. Fifty percent (50%) of any surplus monies for a fund year in excess of 125 percent (125%) of the amount necessary to fulfill all obligations under the Workers' Compensation Act for that fund year may be declared refundable to a member at any time. If the amount calculated to be refundable is less than $500, then 100 percent (100%) of any surplus monies in excess of 125 percent (125%) may be declared refundable. Date of payment shall be no earlier than eighteen (18) months following the end of such fund year, provided that no more than one (1) refund may be made in any twelve (12) month period. When all claims arising out of any one fund year have been fully paid, all surplus monies from that year may be declared refundable.

K. The group self-insurer shall give notice to the commissioner of any refund. Said notice shall be accompanied by a statement from the self-insurer's certified public accountant certifying that the proposed refund is in compliance with J. above.

L. In the event of a deficit in any fund year, such deficit shall be paid up

immediately, either from surplus from a fund year other than the current fund year, or by assessment of the membership. The commissioner shall be notified within ten days of any transfer of surplus funds.

M. If the commissioner finds that any deficit has not been paid up, he shall order an assessment to be levied against the members of a group self-insurer sufficient to make up any deficit.

4 MCAR § 1.9294 Qualification for workers' compensation service companies.

A. Any person or entity desiring to be licensed as a workers' compensation service company shall apply to the commissioner on forms available from the commissioner. The license shall designate areas of administrative services which the service company shall be authorized to perform. Any license granted shall be effective for a period of two (2) years unless revoked by order of the commissioner.

B. In support of the application, a workers' compensation service company shall submit:

1. Summary information concerning its organization and staff.

2. Detailed resumes of all employees, or employees of any subcontractor, with administrative or professional capacity. Such resumes shall indicate the areas of administration in which each employee shall work and the qualifications and experience of the employee relating to that area.

3. A description of the administrative services intended to be provided.

4. The identity of the owners of the service company, including all members of a partnership and all officers of a corporation.

C. The application shall be accompanied by a certification that the applicant has employed or has contracted with competent individuals to provide those services intended to be provided to self-insurers.

D. If the workers' compensation service company intends to provide claims adjusting, the service company or its subcontractor shall have supervisory personnel who possess at least three (3) years' experience adjusting workers' compensation claims. Further, the workers' compensation service company or subcontractor shall have at least one adjuster who holds a license under Minn. Stat. ch. 72B and shall be situated within the State of Minnesota.

E. The workers' compensation service company shall have within the State of Minnesota an employee who is able to act as a resident agent, authorized to act in all matters concerning the service company.

F. The workers' compensation service company shall have employed or retained experienced accountants when necessary to the providing of the ad-

ministrative services to a self-insurer, when the prospective self-insurer does not provide such expertise.

G. The commissioner shall grant or deny the license within thirty (30) days after a complete application has been filed showing compliance with A. through F. above. However, if any applicant, an affiliated company of the applicant, or owner or officer of the applicant has committed an act or practice in connection with the administration of claims which is defined as unfair or deceptive in Minn. Stat. § 72A.20, the applicant shall be denied a license under this rule. Any applicant who is denied a license pursuant to this subdivision may within thirty (30) days after denial by the commissioner demand a hearing pursuant to Minn. Stat. ch. 15. The commissioner shall have the burden of proof at any such hearing to prove that the applicant has committed such a practice.

H. Any records of a workers' compensation service company relating to any of the services offered or provided to any self-insurer shall be open to inspection by the commissioner during normal business hours.

I. Each workers' compensation service company may be investigated by the commissioner upon reasonable belief that the service company is not in compliance with 4 MCAR §§ 1.9285 to 1.9294 or is improperly administering workers' compensation claims pursuant to the Workers' Compensation Act. If the commissioner determines that the service company is not in compliance with 4 MCAR §§ 1.9285 to 1.9294 of the Workers' Compensation Act, the service company shall be liable for the cost of the investigation.

J. Revocation of any workers' compensation service company license shall be pursuant to the contested case procedure in Minn. Stat. ch. 15.

K. Grounds for revocation of the workers' compensation service company license shall be:

1. Maintenance of inadequate loss reserves.

2. Violation of any of the foregoing rules.

3. Violation of any provision of the Workers' Compensation Act.

4. Committing an unfair or deceptive act or practice as defined in Minn. Stat. § 72A.20.

L. Each workers' compensation service company shall be expected to file, or attempt to ensure that the self-insurers it services file, all required reports relating to those services which they provide by the dates established by statute or by these rules. Such reports shall include the following: loss information reports required by 4 MCAR § 1.9289, reports required by the WCRA, and any report required by the Minnesota Department of Labor and Industry.

M. Each workers' compensation service company shall report to the commissioner the termination of any service contract entered into with a self-insurer within ten (10) days of such termination.

4 MCAR §§ 1.9295-1.9299 Reserved for future use.

Appendix I
BONDING COMPANY NAME
Bond No.
SURETY BOND

KNOW ALL MEN BY THESE PRESENTS: That we, (entity to be bonded), of (location), (hereinafter called the "Principals"), as Principals, and (bonding company name), a (name of state) corporation, of (location) (hereinafter called the "Surety"), as Surety, are held and firmly bound unto the Commissioner of Insurance of the STATE OF MINNESOTA for the use and benefit of the employees of the Principals and to pay workers' compensation obligations of the Principals in the sum of (dollar amount), for the payment of which well and truly to be made, the Principals bind themselves, their successors and assigns, and the Surety binds itself and its successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, in accordance with the provisions of Section 176.181 of the Minnesota Statutes, the Principals have by written order of the Commissioner of Insurance of the State of Minnesota been exempted from insuring its liability for compensation according to the provisions of the Minnesota Workers' Compensation Act and have been permitted by said order to self-insure all liability hereafter arising under the Workers' Compensation Act, including their liability for medical expenses.

NOW, THEREFORE, the condition of this obligation is such that if the said Principals shall, according to the terms, provisions and limitations of the Minnesota Worker's Compensation Act, pay all of their liabilities and obligations under said act, including all benefits as provided by said act, then this obligation shall be null and void, otherwise to remain in full force and effect, subject, however, to the following terms and conditions:

1. The liability of the Surety is limited to the payment of all legal liabilities and obligations, including payment of compensation and medical benefits, provided by the Workers' Compensation Act of Minnesota which are payable by said Principals for or on account of personal injuries or occupational diseases sustained during or attributable to the entire period that the Principals are authorized to self-insure in the State of Minnesota, subject to cancellation, as hereinafter provided. In no event shall the total liability of the Surety exceed the amount herein stated, to-wit, the sum of (dollar amount).

2. In the event of any default on the part of the Principals to abide by any award, order or decision of the Workers' Compensation Division of Minnesota directing and awarding payment of such legal liabilities, obligations, or benefits to or on behalf of any employee or the dependents of any deceased employee, the Commissioner of Insurance may, upon ten days notice to the Surety and opportunity to be heard, require the Surety to pay the amount of the same, to be enforced in like manner as an award may be enforced against said Principals.

3. Service on the Surety shall be deemed to be service on the Principals.

4. This bond shall continue in force from year to year unless cancelled as herein provided, but regardless of the number of years this bond remains in force or the number of annual premiums paid or payable the total liability of the Surety hereunder shall not exceed the sum of (dollar amount).

5. This bond may be cancelled at any time by the Surety by giving sixty (60) days notice in writing to the Commissioner of Insurance of the State of Minnesota at its offices in the City of St. Paul, Minnesota, and upon expiration of said sixty (60) days the liability of the Surety hereunder shall cease, except as to liability incurred hereunder prior to the expiration of said sixty (60) days, as set out in paragraph 1.

6. This bond shall become effective at (time of day, month, day, year).

IN TESTIMONY WHEREOF, said Principals and said Surety have caused this instrument to be signed by their respective duly authorized officers and their corporate seals to be hereunto affixed this (day, month, year).

Signed, sealed and delivered in the presence of:

Corporation Name

_____ By: _____

_____ Bonding Company Name

_____

_____ By _____

Appendix II
INDEMNITY AGREEMENT

1. Whereas, (name of company) has agreed to be and has been accepted as a member of (name of Group Self-Insurer).

2. Whereas, (name of company) has agreed to be bound by all of the provisions of the Minnesota Workers' Compensation Act and all Rules and Regulations promulgated thereunder.

3. Whereas, that (name of company) has agreed to be bound by the by-laws or plan of operation and all amendments thereto of (name of Group Self-Insurer).

4. Whereas, that (name of company) has agreed to be jointly and severally liable for all claims and expenses of all the members of (name of Group Self-Insurer) arising in any fund year in which (name of company) is a member of the group. Provided that if (name of company) is not a member for the full year it shall be only liable for a pro rata share of that liability.

IN WITNESS WHEREOF, the (name of company) and (name of group self-insurer) have caused this indemnity agreement to be executed by its authorized officers:

GROUP SELF-INSURER'S NAME	COMPANY NAME
BY: _____	BY: _____
DATE: _____	DATE: _____

2518A-C

4 MCAR S 1.9350 Definition.

"Commercial policies" means all policy forms regulated by Minnesota Statutes, section 70A.06 which by general practice are used for business entities. The term does not include policy forms providing private passenger vehicle insurance or homeowners' insurance, personal liability coverage, personal property or personal article floater coverage, credit property coverage, crop hail insurance, title insurance, or professional liability insurance covering individuals. The term does not include policy forms insuring individually owned motorcycles, motorized bicycles, recreational equipment, mobile homes, house trailers, snowmobiles, watercraft, aircraft not used in air commerce, or owner occupied residential dwellings containing fewer than five family dwelling units.

4 MCAR S 1.9351 Exemption from certain filing requirements.

A. Commercial policy forms. If the commercial policy forms of an insurer comply with the requirements set forth in Minnesota Statutes, the insurer shall be exempt from the filing and approval requirements set forth in Minnesota Statutes, section 70A.06, subdivision 2 for those policies.

B. Commercial policy rates. If the rates of an insurer for commercial policy forms comply with the requirements set forth in Minnesota Statutes, the insurer shall be exempt from the filing requirements set forth in Minnesota Statutes, section 70A.06, subdivision 1 for those rates. This paragraph does not apply to guide "a" rates or excess rates, also known as "consent to rate."

C. Other rates. Insurers shall be exempt from the filing requirements set forth in Minnesota Statutes, section 70A.06 for guide "a" rates and excess rates used for commercial policies of insurance if the rates comply with the requirements set forth in Minnesota Statutes and the insurer maintains a file containing the information required by Minnesota Statutes, section 70A.06, subdivision 1 for the policy for at least one year after the policy has terminated.

4 MCAR S 1.9352 Filing of exempt information.

An insurer shall within 30 days of request provide the commissioner of insurance with any of the information for which 4 MCAR S 1.9351 provides exemption from filing.

See new: ar 04755T →

2519-2529

4 MCAR S 1.9401 Authority and scope. The following regulations are applicable to all variable life insurance policies issued in this state, and are promulgated under the authority of Minnesota Statutes, section 61A.20.

4 MCAR S 1.9402 Definitions. As used in this regulation:

A. "Assumed investment rate" means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

B. "Benefit base" means the amount, not less than the amount specified under 4 MCAR S 1.9406 B.2. specified by the terms of the variable life insurance policy to which the difference between the net investment return and the assumed investment rate is applied in determining the variable benefits of the policy.

C. "General account" means all assets of the insurer other than assets in separate accounts established pursuant to Minnesota Statutes, section 61A.14, or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.

D. "Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including accidental death and dismemberment benefits, disability income benefits, guaranteed insurability options, family income, or fixed benefit term riders.

E. "Minimum death benefit" means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

F. "Net investment return" means the rate of investment return in a separate account to be applied to the benefit base after deduction of charges for taxes, investment expenses and mortality and expense guarantees in accordance with the terms of the policy.

G. "Separate account" means a separate account established for variable life insurance pursuant to Minnesota Statutes section 61A.14, or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

H. "Variable death benefit" means the amount of the death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of the minimum death benefit.

I. "Variable life insurance policy" means any individual policy which provides for life insurance which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to Minnesota Statutes, section 61A.14, or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

J. "Securities Act of 1933" means the Federal Securities Act of 1933, 15 United States Code, section 77a et. seq.

K. "Securities Exchange Act of 1934" means the Federal Securities Exchange Act of 1934, 15 United States Code, section 78a et. seq.

L. "Investment Company Act of 1940" means the Federal Investment Company Act of 1940, 15 United States Code, section 80a-1 et. seq.

M. "Employee Retirement Income Security Act of 1974" means the Federal Employee Retirement Income Security Act of 1974, 29 United States Code, section 1001 et. seq.

2519-2529

4 MCAR S 1.9403 Qualification of insurer to issue variable life insurance.

A. An insurer shall not deliver or issue for delivery in this state any variable life insurance policy unless it has complied with Minnesota Statutes, sections 61A.13 to 61A.21 and 4 MCAR SS 1.9401-1.9411, and the commissioner has granted the insurer the authority to issue variable life insurance policies in the state of Minnesota pursuant to Minnesota Statutes, section 61A.20.

B. Before any insurer shall deliver or issue for delivery any variable life insurance policy in this state, it must file with the commissioner the following information for the consideration of the commissioner in making the determination required by Minnesota Statutes, section 61A.19.

1. copies of and a general description of the variable life insurance policies it intends to issue;

2. a general description of the methods of operation of the variable life insurance business of the insurer;

3. with respect to any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the insurer intends to follow for the

investment of the assets held in such separate account, and a statement of the procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objective and orientation intended for the separate account.

4 MCAR S 1.9404 Insurance policy requirements.

2519-2529

A. The commissioner shall not accept the filing of any variable life insurance policy form unless it conforms to the requirements of 4 MCAR S 1.9404 and Minnesota Statutes, chapter 61A.

B. Mandatory policy benefit and design requirements. Variable life insurance policies delivered or issued for delivery in this state shall comply with the following minimum requirements:

1. Coverage shall be provided for the lifetime of the insured with the mortality and expense risk borne by the insurer.

2. Gross premiums for death benefits shall be a level amount for the duration of the premium payment period, but this subdivision shall not be construed to prohibit temporary or permanent additional premiums for incidental insurance benefits or substandard risks. This subdivision shall not be deemed to prohibit the use of fixed benefit preliminary term insurance for a period not to exceed 120 days from the date of the application for a variable life insurance policy. The premium rate for such preliminary term insurance shall be stated separately in the application or receipt.

3. A minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid (subject to the provisions of 4 MCAR S 1.9404 C.2.).

4. The policy shall provide that the variable death benefit shall reflect the investment experience of the variable life insurance separate account established and maintained by the insurer and that the excess, positive or negative, of the net investment return over the assumed investment rate, as applied to the benefit base of each variable life insurance policy, shall be used to provide either:

a. fully paid-up variable life insurance providing coverage for the same period as the basic insurance under the policy or fully paid-up term insurance amounts for a term of annual periods of not less than one year nor more than five years, positive or negative, as the case may be, or a combination thereof; or

b. variable life insurance amounts, positive or negative, as the case may be, so that the reserve maintains the same percentage relationship to the variable death benefit as it

would have on a corresponding fixed benefit policy.

5. Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base.

6. Changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

7. The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other non-forfeiture benefits, as described either in the policy or in a statement filed with the commissioner or person fulfilling the equivalent function of the state in which the policy is delivered, or issued for delivery, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values and other non-forfeiture benefits must be at least equal to the minimum values required by Minnesota Statutes, section 61A.24 (standard non-forfeiture law) for a fixed benefit policy with such premiums and benefits. The assumed investment rate shall not exceed the maximum interest rate permitted under the standard non-forfeiture law of this state. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

8. The computation of values required for each variable life insurance policy may be based upon reasonable and necessary approximations.

9. In determining the net investment return to be applied to the benefit base the insurer may deduct only the charges described in 4 MCAR S 1.9406 G.1.a., b., d., and e.

C. Mandatory policy provisions. Every variable life insurance policy filed for approval in this state shall contain at least the following:

1. the cover page or pages corresponding to the cover page of each such policy shall contain:

a. a prominent statement in either contrasting color or in boldface type at least four points larger than the type size of the largest type used in the text of any provision on that page, that the death benefit may be variable or fixed under specified conditions;

b. a prominent statement in either contrasting color or in boldface type at least four points larger than the type size of the largest type used in the text of any provision on that page that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees;

c. a statement that the minimum death benefit will be at least equal to the initial face amount at the date of issue if premiums are duly paid and if there are no outstanding policy loans, partial withdrawals, or partial surrenders;

d. the rule, or a reference to the policy provision, which describes the method for determining the variable amount of insurance payable at death;

e. a captioned provision or endorsement to the policy which provides that the policyholder may cancel the variable life insurance policy by delivering or mailing a written notice or sending a telegram to the insurer and by returning the policy before midnight of the tenth day after the date the policyholder receives the policy, or before midnight of the forty-fifth day after the date of the execution of the application, whichever is later. Notice given by mail and return of the policy are effective on being postmarked properly addressed and postage prepaid. The insurer must return all payments made for the policy within ten days after it receives notice of cancellation and the returned policy.

f. such other items as are currently required by Minnesota Statutes, chapter 61A.

2. a provision for a grace period of not less than 31 days from the premium due date which shall provide that where the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date;

3. a provision that the policy will be reinstated at any time within three years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

a. all overdue premiums with interest at a rate not exceeding eight (8) percent per annum compounded annually and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate not exceeding eight (8) percent per annum compounded annually; or

b. 110 percent of the increase in cash surrender value

resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding eight (8) percent per annum compounded annually.

4. a full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy;

5. a provision designating the separate account to be used and stating that:

a. such separate account shall be used to fund only variable life insurance benefits;

b. the assets of such separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account; and

c. the assets of such separate account shall be valued at least as often as any policy benefits vary but at least monthly.

6. a provision stating that the approval process for a change in the investment policy of the separate account is on file with the commissioner;

7. a provision that payment of variable death benefits in excess of the minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums) or partial surrenders may be deferred:

a. for up to six months from the date of request, if such payments are based on policy values which do not depend on the investment performance of the separate account, or

b. otherwise, for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical.

8. settlement options which shall be provided on a fixed basis only;

9. a description of the basis for computing the cash surrender value under the policy shall be included. Such surrender value may be expressed as either:

a. a schedule of cash value amounts per $1,000 of variable face amount at each attained age or policy year for at least 20 years from issue, or for the premium paying period, if less than 20 years; or

b. one cash value schedule as described in paragraph 1., for the death benefit, or for each $1,000 of death benefit, which would be in effect if the net investment return is always equal to the assumed investment rate and a second schedule applicable to any adjustments to the death benefit (disregarding the minimum death benefit guarantee and term insurance amounts) if the net investment return does not equal the assumed investment rate at each age for at least 20 years from issue, or for the premium paying period if it is less than 20 years.

10. premiums for incidental insurance benefits shall be stated separately.

D. Non-forfeiture, partial withdrawal, policy loan, and partial surrender provisions. Every variable life insurance policy delivered or issued for delivery in this state shall contain provisions which are not less favorable to the policyholder than the following:

1. A provision for non-forfeiture insurance benefits so that at least one such benefit is offered on a fixed basis from the due date of the premium in default.

a. Variable extended term insurance may not be offered.

b. A given non-forfeiture option need not be offered on both a fixed and a variable basis.

c. The insurer may establish a reasonable minimum cash surrender value below which any such non-forfeiture insurance options will not be available.

2. A provision for policy loans after three full years' premiums have been paid (which may at the option of the insurer be entitled and referred to as a partial withdrawal provision) not less favorable to the policyholder than the following:

a. Up to 75 percent but if the loan is made from the general account not more than 90 percent of the policy's cash value may be borrowed;

b. The amount borrowed, or any repayment thereof, shall not affect the amount of the premium payable under the policy;

c. The amount borrowed shall bear interest at a rate not to exceed eight percent per year compounded annually;

d. Any indebtedness shall be deducted from the proceeds payable on death;

e. Any indebtedness shall be deducted from the cash value upon surrender or in determining any non-forfeiture benefit;

f. Whenever the indebtedness exceeds the cash value,

the insurer shall give notice of intent to cancel the policy if the excess indebtedness is not repaid within 31 days after the date of mailing of such notice;

g. The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110 percent of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request;

h. In addition to the foregoing, the policy may contain a partial surrender provision; however, any such provision shall provide that the policyholder may request part of the cash value and both the variable and minimum death benefits will be reduced in proportion to the percentage of the cash value received by the policyholder and the premium for the remaining amount of insurance will also be reduced to the appropriate rates for the reduced amount of insurance. The policy may provide that a partial surrender provision shall not require the insurer to reduce the amount of the minimum death benefit to less than the lowest amount of minimum death benefit which would have been issued to the insured under the insurance plans of the insurer at the time the policy was issued. The policy must clearly provide that the policyholder has the option of electing to exercise the cash value privileges of the policy loan or partial withdrawal provision rather than the partial surrender provision;

i. All policy loan, partial withdrawal, or partial surrender provisions shall be constructed so that variable life insurance policyholders who have not exercised such provision are not disadvantaged by the exercise thereof;

j. Moneys paid to the policyholders upon the exercise of any policy loan, partial withdrawal, or partial surrender provision shall be withdrawn from the separate account and

shall be returned to the separate account upon repayment except that a stock insurer may provide the moneys for policy loans from the general account.

E. Other policy provisions.

1. Incidental insurance benefits, if offered, shall be on a fixed basis only;

2. Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer the following dividend options:

a. the amount of the dividend may be credited against premium payments;

b. the amount of the dividend may be applied to provide paid-up amounts of additional fixed benefit whole life insurance;

c. the amount of the dividend may be applied to provide paid-up amounts of additional variable life insurance;

d. the amount of the dividend may be deposited in the general account at a specified minimum rate of interest;

e. the amount of the dividend may be applied to provide paid-up amounts of fixed benefit one-year term insurance.

3. A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans or partial withdrawals under 4 MCAR S 1.9404 D., except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed.

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4 MCAR S 1.9405 Reserve liabilities for variable life insurance.

A. Reserve liabilities for variable life insurance policies shall be established under the Standard Valuation Law, Minnesota Statutes, section 61A.25, in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

B. Reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall be not less than the greater of the following minimum reserves:

1. The aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate; or

2. The aggregate total of the "attained age level" reserves on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall equal the "residue," as described in paragraph a. below, of the prior year's "attained age level" reserve on the contract, with any such "residue," increased or decreased by a payment computed on an attained age basis as described in paragraph b. below.

a. the "residue" of the prior year's "attained age level" reserve on each variable life insurance contract shall

not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

b. the payment referred to in 4 MCAR S 1.9405 B.2. shall be computed so that the present value of a level payment of that amount each year over the future premium paying period of the contract is equal to (A) minus (B) minus (C), where (A) is the present value of the future guaranteed minimum death benefits, (B) is the present value of the future death benefits that would be payable in the absence of such guarantee, and (C) is any "residue," as described in paragraph a. above, of the prior year's "attained age level" reserve on such variable life insurance contract. If the contract is paid-up, the payment shall equal (A) minus (B) minus (C). The amounts of future death benefits referred to in (B) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest rate but in no event may exceed the maximum interest rate permitted for the valuation of life contracts.

3. The valuation interest rate and mortality table used in computing the two minimum reserves described in paragraphs 1. and 2. above shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

C. Reserve liabilities for all fixed incidental insurance benefits shall be maintained in the general account in amounts determined in accordance with the actuarial procedures appropriate to such benefit.

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4 MCAR S 1.9406 Separate accounts. The following requirements apply to the establishment and administration of variable life insurance separate accounts:

A. Establishment and administration of separate accounts. An insurer issuing variable life insurance in this state shall establish and administer one or more separate accounts pursuant to Minnesota Statutes, section 61A.14.

1. All persons with access to the cash, securities, or other assets of the separate account shall be under bond in an amount not less than $3,000,000.

2. If an insurer establishes more than one separate account for variable life insurance, justification for the establishment of each additional separate account shall also be filed with the commissioner. The creation of additional separate accounts to avoid lower maximum charges against the separate account is prohibited.

3. The assets of such separate accounts established for variable life insurance policies shall be valued at least as often as variable benefits are determined but in any event at least monthly.

4. A separate account exempt pursuant to section 3(c)(11) of the Investment Company Act of 1940 because of the tax qualified status of the policies funded thereby shall not be used to fund other variable life insurance policies.

5. Except for separate accounts exempt pursuant to section 3(c)(11) of the Investment Company Act of 1940, variable life insurance separate accounts shall not be used for variable annuities or for the investment of funds corresponding to dividend accumulations or other policyholder liabilities not involving life contingencies.

B. Amounts in the separate account.

1. The insurer shall maintain in each variable life insurance separate account assets with a fair market value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

2. The benefit base of any variable life insurance policy as of the beginning of any valuation period shall not be less than the sum of the following factors after deducting amounts of any indebtedness pursuant to 4 MCAR S 1.9404 D.2.:

a. the valuation net premium for such period, for the variable portion of the policy, minus the discounted cost of term insurance for such period, based on the tabular mortality and interest rates used in determining valuation reserves; and

b. the valuation terminal reserve, for the variable portion of the policy, at the end of the immediately preceding valuation period adjusted for the net investment return of such preceding period.

3. In lieu of the minimum benefit base requirement specified above, an insurer may otherwise qualify under 4 MCAR S 1.9406 B. if the policy benefits obtained over a 20-year period from the date of issue by the use of the insurer's benefit base are at least substantially equivalent in value to the benefits obtained by the use of the minimum benefit base specified above.

4. Notwithstanding the actual reserve basis used for policies that do not meet standard underwriting requirements,

the benefit base for such policies may be the same as for corresponding policies which do meet standard underwriting requirements.

C. Investments by the separate account.

1. Assets allocated to a variable life insurance separate account shall be held in cash or investments having a reasonably ascertainable market price. For purposes of this subdivision, only the following shall be considered "investments having a reasonably ascertainable market price:"

a. liens in favor of the insurer against separate account policy reserves resulting from use by policyholders of cash values;

b. securities listed and traded on the New York Stock Exchange, the American Stock Exchange, or regional stock exchanges or successors to such exchanges having the same or similar qualifications;

c. securities listed on the National Association of Securities Dealers Automated Quotations System (hereinafter referred to as the "NASDAQ System");

d. shares of an investment company registered pursuant to the Investment Company Act of 1940. Where such an investment company issues book shares in lieu of share certificates, such book shares shall be deemed to be adequate evidence of ownership;

e. obligations of or guaranteed by the United States Government, the Canadian Government, any state, or municipality or governmental subdivision of a state;

f. commercial paper issued by business corporations when the total of such paper issued by the corporation does not exceed in value a guaranteed short line of credit by a bank;

g. certificates of deposit issued by financial institutions, the deposits of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; and

h. new bond or debt issues which may reasonably be expected to be listed on an exchange regulated by the Securities Exchange Act of 1934.

2. Assets allocated to a variable life insurance separate account shall not be invested in:

a. commodities or commodity contracts;

b. put and call options or combinations of such options;

c. short sales;

d. purchases on margins;

e. letter or restricted stock;

f. units or other evidences of ownership of a separate account of another insurer, except those registered under the Investment Company Act of 1940; or

g. real estate other than shares of a real estate investment trust listed as described in 4 MCAR S 1.9406 C.1.b.

D. Limitations on ownership.

1. A variable life insurance separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the value of such investment, together with prior investments of such account in such security valued as required by this regulation, would exceed ten percent of the value of the assets of the separate account. The commissioner shall waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state.

2. No separate account shall purchase or otherwise acquire the voting securities of any issuer if as a result of such acquisition the insurer and its separate accounts, in the aggregate, will own more than ten percent of the total issued and outstanding voting securities of such issuer. The commissioner shall waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state or jeopardize the independent operation of the issuer of such securities.

3. The percentage limitation specified in 4 MCAR S 1.9406 D.1. shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the Investment Company Act of 1940 if the investments and investment policies of such investment companies comply substantially with the provisions of 4 MCAR S 1.9406 C. and other applicable portions of this regulation.

E. Valuation of assets of a variable life insurance separate account.

1. Investments of the separate account shall be valued at their market value on the date of valuation.

a. Market value for investments traded on the recognized exchanges means the last reported sale price on the date of valuation. If there has been no sale on that date, the market value means the last reported bid quotation on the date of valuation.

b. Market value for investments listed on the NASDAQ System means the last representative bid quotation on the valuation date. If an investment ceases to be listed but continues to be traded over the counter, it shall be valued at the lowest bid quotation as it appears on the National Quotation Bureau sheets.

c. If the valuation date referred to in paragraphs a. and b. above is a day when the exchange or the NASDAQ System is not open for business, the valuation date shall be the last date when the exchange or the NASDAQ System was open for business.

2. If an investment ceases to be traded, it shall be valued at fair value as determined in good faith by or at the direction of the board of directors of the insurer but not in excess of the last reported bid quotation.

3. Notification of cessation of trading of any investment shall be reported by the insurer to the commissioner within 30 days thereof.

F. Separate account investment policy. The investment policy of a separate account operated by a domestic insurer filed under 4 MCAR S 1.9403 B.3. shall not be changed without filing the change with the commissioner.

1. The commissioner shall have 60 days after the date the change is filed with him to notify the insurer of his determination that the proposed change is a material change in the insurer's investment policy.

2. If the change is deemed material by the commissioner he shall hold a public hearing to determine whether the change is detrimental to the interests of the policyholders of the insurer.

3. At least 30 days prior to any public hearing under paragraph 2. above, the insurer shall mail a notice to each policyholder and to the insurance commissioner of each state in which the affected variable life insurance policies are being sold. Such notice shall describe the proposed change in investment policy, list the reasons therefor, designate the date and place of the public hearing, inform the policyholder of the procedures to be followed in commenting on the change, and describe the conduct of the meeting.

4. Within 60 days after such public hearing, the commissioner shall notify the insurer of his determination, and if it is that the change is detrimental to the interests of the policyholders of the insurer, the insurer shall not be allowed to make such change.

5. should any policyholder object to the proposed change and the change is allowed by the commissioner the objecting policyholder shall be given the option within 60 days of notification to the policyholder of the allowance by the

commissioner of such change, or converting, without evidence of insurability, under one of the following options, to a fixed benefit life insurance policy issued by the insurer or an affiliate:

a. If the policy is in force on a premium paying basis, either:

(1) conversion as of the original issue age to a substantially comparable permanent form of fixed benefit life insurance, based on the insurer's premium rates for fixed benefit life insurance at the original issue age, for an amount of insurance not exceeding the death benefit of the variable life insurance policy on the date of conversion.

(2) conversion as of the attained age to a substantially comparable permanent form of fixed benefit life insurance for an amount of insurance not exceeding the excess of the death benefit of the variable life insurance policy on the date of conversion over:

(a) its cash value on the date of conversion if the policyholder elects to surrender the variable life policy for its cash value, or

(b) the death benefit payable under any paid-up insurance option if the policyholder elects such nonforfeiture option under the variable life policy.

b. If the policy is in force as paid-up variable life insurance, then conversion will be to a substantially comparable paid-up fixed benefit life insurance policy for an amount of insurance not exceeding the death benefit of the variable life insurance policy on the date of conversion.

If conversion is made pursuant to paragraphs a.(1) or b. above, then (1) if the cash value of the variable life insurance policy exceeds the cash value of the fixed benefit life insurance policy, the difference shall be paid to the policyholder; (2) if the cash value of the fixed benefit life insurance policy exceeds the cash value of the variable life insurance policy, the difference shall be paid by the policyholder; and (3) any indebtedness under the variable life insurance policy shall become indebtedness under the fixed benefit policy, provided that any excess of such indebtedness over the cash value of the fixed benefit policy on the date the conversion shall be deducted from any amount otherwise payable to the policyholder.

G. Charges against a variable life insurance separate account.

1. The insurer may deduct only the following from the separate account:

a. taxes or reserves for taxes attributable to

investment gains and income of the separate account:

b. actual cost of reasonable brokerage fees and similar direct acquisition and sales costs incurred in the purchase or sale of separate account assets.

c. actuarially determined costs of insurance (tabular costs) and the release of reserves and benefit base consistent with the release of separate account liabilities.

d. charges for investment management expenses, including internal costs attributable to the investment management of assets of the separate account, not exceeding the following percentages, on an annual basis, of the average net value of the separate account as of the dates of valuation under 4 MCAR S 1.9406 A.3.:

(1) .75 percent of that portion of separate account assets valued at or under $75,000,000; and

(2) .50 percent of that portion of separate account assets valued in excess of $75,000,000 but less than $150,000,000; and

(3) .40 percent of that portion of separate account assets valued in excess of $150,000,000 but less than $400,000,000; and

(4) .35 percent of that portion of separate account assets valued in excess of $400,000,000 but less than $800,000,000; and

(5) .30 percent of that portion of separate account assets valued in excess of $800,000,000.

e. a charge, at a rate specified in the policy, not to exceed .50 percent per year of the average net asset value of the separate account as of the dates of valuation under 4 MCAR S 1.9406 A.3., for mortality and expense guarantees.

f. Any amounts in excess of those required to be held in the separate account.

2. Any charges against the separate account made by either an affiliate of the insurer or an unaffiliated fund shall be considered part of the charges limited by 4 MCAR S 1.9406 G.1.d. and e. Any charge against the separate account, excluding taxes, shall not vary in accordance with the difference between the investment performance of the separate account and any index of securities prices or other measure of investment performance.

4 MCAR S 1.9407 Information furnished to applicants. The requirements of 4 MCAR S 1.9407 shall be deemed to have been satisfied to the extent that a disclosure containing information

required by 4 MCAR S 1.9407 is delivered, either in the form of (1) a prospectus included in a registration statement relating to the policies which satisfies the requirements of the Securities Act of 1933 and which was declared effective by the Securities and Exchange Commission; or (2) all information and reports required by the Employee Retirement Income Security Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to section 3(a)(2) thereof. An insurer delivering or issuing for delivery in this state any variable life insurance policies shall deliver to the applicant for the policy, and obtain a written acknowledgement of receipt from such applicant coincident with or prior to the execution of the application, the following information:

A. a summary explanation, in non-technical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. Such explanation must include notices of the provision required by 4 MCAR S 1.9404 C.1.e. and Minnesota Statutes, section 61A.03, clause (3).

B. a statement of the investment policy of the separate account, including:

1. a description of the investment objective and orientation intended for the separate account and the principal types of investments intended to be made; and

2. any restriction or limitations on the manner in which the operations of the separate account are intended to be conducted.

C. a statement of the net investment return of the separate account for each of the last ten years for which the separate account was in existence;

D. a statement describing, as an approximate percentage of an annual gross premium for each year and for the life of the policy all commission or equivalent payments to be paid to all agents or other persons as a result of the proposed sale for each year of the policy for which such payments are to be made. As used in this section, "commissions" means all moneys and other valuable consideration, including but not limited to prizes, bonuses paid directly or indirectly to, for, or on behalf of the selling agent as compensation for services in the sale of variable life insurance;

E. a statement of the annual taxes, brokerage fees, and similar costs, and the charges, expressed as an annual percentage, levied against the separate account during the previous year;

F. a summary of the method to be used in valuing assets held by the separate account;

G. a summary of the federal income tax liabilities of the policy applicable to the insured, the policy owner, and the beneficiary;

H. if the applicant is furnished illustrations of benefits payable under any variable life insurance contract, such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or attempted predictions of future investment experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only;

I. a prominent statement either in contrasting color or in boldface type at least four points larger than the type size of the largest type used in the text of any provision on the page, providing in substance the following information:

1. The purpose of this variable life insurance policy is to provide insurance protection for the beneficiary named therein.

2. No claim is made that this variable life insurance policy is in any way similar or comparable to a systematic investment plan of a mutual fund.

4 MCAR S 1.9408 Applications. The application for a variable life insurance policy shall contain:

A. a prominent statement that the death benefit may be variable or fixed under specified conditions;

B. a prominent statement that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees);

C. questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant.

4 MCAR S 1.9409 Reports to policyholders. Any insurer delivering or issuing for delivery in this state any variable life insurance policies shall mail to each variable life insurance policyholder at his or her last known address the following reports:

A. Within 30 days after each anniversary of the policy, a statement or statements of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, and any optional payments allowed pursuant to 4 MCAR S 1.9404 C. under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within 30 days after a specified date in each policy year so

long as the information contained therein is computed as of a date not more than 45 days prior to the mailing of such notice. This statement shall state in contrasting color or distinctive type that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by 4 MCAR S 1.9409. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement, the statement shall be modified to so indicate.

B. Annually, a statement or statements including:

1. a summary of the financial statement of the separate account based on the annual statement last filed with the commissioner;

2. the net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of five years when available;

3. a list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the commissioner;

4. any charges, taxes, and brokerage fees determined on an accrual basis payable by the separate account during the previous year, each expressed as a dollar amount and a percentage and the total expressed as a dollar amount and as a percentage of the assets of the separate account;

5. a statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account or in the investment adviser of the separate account;

6. the names and principal occupations of each principal executive officer and each director of the insurer; and

7. the names of all parents of the insurer and the basis of control of the insurer, and the name of any person who is known to own, of record or beneficially, ten percent or more of the outstanding voting securities of the company.

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4 MCAR S 1.9410 Foreign companies. If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially greater than that provided by this regulation, the commissioner shall consider compliance with such law or regulation as compliance with this regulation.

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4 MCAR S 1.9411 Qualification of agents for the sale of variable life insurance. Any person who holds a valid license to solicit and sell life insurance in this state and has filed with the commissioner evidence of compliance with all applicable state and federal securities laws shall be qualified pursuant to Minnesota Statutes, section 60A.17, subdivision 13, clause (1) to sell or offer for sale variable life insurance policies in this state.