

CHAPTER 71

**FOREIGN COMPANIES; MUTUAL COMPANIES; HAIL INSURANCE;
FIDELITY AND SURETY COMPANIES**

71.01-71.06 Repealed, 1947 c 120 s 17.

71.07 Renumbered 60.511, Subdivision 1.

71.08 Renumbered 60.511, Subdivision 2.

71.09 Renumbered 60.511, Subdivision 3.

71.10 Renumbered 60.512.

71.11 Renumbered 60.513.

71.12 Renumbered 60.514.

71.13 Renumbered 60.515.

71.14 Renumbered 60.516.

71.15 Renumbered 60.518.

FOREIGN COMPANIES

71.16 FOREIGN COMPANIES; REQUIREMENTS; CERTIFICATES

Where the insurance rating company surveyed the insured premises in behalf of the insurers preliminary to the issuance of fire policies, the bureau's knowledge of the premises and their use and upkeep is presumed. *Cement, Sand & Gravel Co. v Agricultural Insurance Co.*, 225 M 211, 30 NW(2d) 341.

Irrespective of the charter or laws of the state of a foreign insurance company's domicile, the limitations of section 61.12 must be applied to the Minnesota investments of the foreign company. Section 71.16 intends that foreign companies be required to do business on a parity with domestic companies. OAG June 23, 1947 (251).

The five-year limitation on the holding of real property as far as domestic life insurance companies are concerned only applies to real property of the character specified in section 61.12, subdivision 1, clauses (2), (3), and (4). If foreign companies are entitled to make investments in Minnesota under the same clauses of section 61.12 the five-year limitation provided for in section 60.49 applies. So far as the 25 percent limitation on home office property is concerned that restriction still applies to all classes of insurance companies. Sections 60.49 and 61.12 must be read together. OAG June 23, 1947 (251).

In computing the net value of outstanding policies of life insurance companies the commissioner of insurance is entitled under section 60.18 to accept the valuation made by the insurance commissioner of the state, under whose authority a life insurance company has been organized, when that valuation has been made on sound and recognized principles and on the legal basis provided in section 60.17, or its equivalent.

MINNESOTA STATUTES 1953 ANNOTATIONS

71.18 FOREIGN COMPANIES

172

Clause (2), section 71.16, relating to the admission of foreign companies, requires that the companies furnish the commissioner satisfactory evidence that its capital, assets, deposits, amount insured, number of risks, reserve and other securities, and guaranties for protection of policy-holders, creditors, and the public, comply with those required of like domestic companies. The limitations of section 61.12 as to the amount of investments in real property permits by that section, under the doctrine of comity apply to foreign as well as domestic companies. OAG June 23, 1947 (251).

Where the commissioner of insurance acts as attorney in fact for a licensed foreign insurance company, the insurance division is required to charge \$2 for each licensed company named in the instrument served and on whom the party desiring the service has named. OAG Sept. 16, 1947 (250-A).

71.18 COMMISSIONER APPOINTED ATTORNEY FOR SERVICE OF PROCESS

The insurance division is required to make a charge of \$2 for each licensed foreign company named in any instrument served upon the director. OAG Sept. 16, 1947 (250-A).

71.22 Renumbered 60.519.

71.23 RETALIATORY PROVISIONS

Retaliatory insurance tax laws. 32 MLR 256.

71.24 INSURANCE FROM UNLICENSED FOREIGN COMPANIES

An insurance company from which the insurer has obtained a policy under a license from the insurance commissioner is "authorized to do business" in the state for the purpose of the particular policy issued. OAG Jan. 27, 1949 (249-B-3).

Public liability and property damage insurance are contracts against liability which the policy holder may incur by reason of his operation of a motor vehicle, and is not "insurance on property" within the purview of section 71.24. OAG Feb. 7, 1949 (249-B-3).

71.25, 71.26 Repealed, 1953 c 163 s 1.

FIDELITY AND SURETY COMPANIES

71.31 FIDELITY AND SURETY COMPANIES

Dishonesty and any other fraudulent or wrongful acts by an employee covered by a federal bond are not established by mere proof of the employee's mistakes or negligence. Rule 50.01, a motion for a directed verdict, accepts the view of the entire evidence most favorable to the adverse party, and should be granted only in unequivocal cases where, in the light of the evidence as a whole, it would be the duty of the trial court to set aside a contrary verdict as being manifestly against the entire evidence. Village of Plummer v Anchor Casualty Co., M, 61 NW(2d) 225.

In an action on a fidelity bond executed to indemnify an employer against loss caused by the dishonesty or fraud of an employee, such as the operator of a liquor store, the burden of proof is on the plaintiff employer to establish by a reasonable preponderance of the evidence the loss, and that such loss was caused by an act of dishonesty or fraud by an employee within the terms of the fidelity bond and during the time alleged in the complaint. Village of Plummer v Anchor Casualty Co., M, 61 NW(2d) 225.

MINNESOTA STATUTES 1953 ANNOTATIONS

173

PROHIBITIONS AND PENALTIES 72.20

71.32 CERTAIN STATE PROPERTY INSURED BY CONSERVATOR OF RURAL CREDIT; STATE PRISON ALSO INSURED

There is no statutory prohibition against use of state funds to pay the cost of fire or theft insurance. OAG Dec. 13, 1948 (980-A-8).

Officers and employees of the state being immune from civil suit from injuries resulting from the negligent act arising out of the performance of their duties, state funds may not be used to pay the cost of public liability coverage. OAG Dec. 13, 1948 (980-A-8).

The state may legally carry fire insurance on prison property augmented by extended coverage including windstorm, hail, explosion, riot, strike conditions, civil commotion, aircraft, vehicles, and smoke laws provided that premiums for such insurance will be paid from a prison revolving fund. OAG Nov. 7, 1952 (980-A-8).

The conservator of rural credit is authorized to purchase insurance covering certain state property. The state prison property may also be insured but the director of public institutions is not authorized to insure state prison property outside of the prison proper. OAG April 1, 1953 (980-A-8).

71.34 VIOLATIONS; PENALTIES

Subdivision 2 renumbered 60.517.

CHAPTER 72

PROHIBITIONS; PENALTIES; REGULATION OF TRADE PRACTICES

72.04 ISSUE OF PROHIBITED LIFE POLICIES

Recovery by insured of attorney's fees incurred in defending a declaratory judgment action contesting policy coverage. 37 MLR 139.

72.05 AGENT OF INSURER, PROCURING PREMIUMS BY FRAUD A MISDEMEANOR

Judicial control of matters relating to sterile premiums. 34 MLR 240.

72.08 FALSE STATEMENTS IN APPLICATIONS

HISTORY. 1885 c 184 s 20; 1895 c 175 s 72.

Judicial control of matters relating to sterile premiums. 34 MLR 240.

72.13 REBATE ON INSURANCE CONTRACTS PROHIBITED

Classification of policies with and without disability benefits for purposes of anti-discrimination. 32 MLR 186.

72.14 INSURED PROHIBITED FROM RECEIVING REBATES

Self incrimination; confession covered by police; legislative investigations; production of writings; bodily or mental examination; jurisdictional limits of the privilege; waiver by testifying. 34 MLR 1.

REGULATION OF TRADE PRACTICES

72.20 PURPOSE OF SECTIONS 72.20 TO 72.33

State regulation of unfair and deceptive practices. 32 MLR 237.