

79.24 INSURERS REQUESTED TO TAKE CERTAIN RISKS; REFUSAL TO WRITE

The mere giving of a notice that a new corporation was to take over the business of the old corporation, and a verbal request to place the insurance in the new company were not a compliance with the statute and did not impose a duty on the bureau to designate a carrier. *Yoselowitz v Peoples Bakery*, 201 M 600, 277 NW 221.

79.25 BUREAU TO FIX PREMIUM RATES

"Where employer is seasonably notified by workmen's compensation rating bureau and by insurance company carrying employer's current compensation policy that upon expiration thereof insurer will not rewrite such risk as a direct account and employer is advised to apply for assigned insurance if coverage cannot otherwise be had, and where employer makes application therefor, but fails to comply with statutory and bureau rules governing such assigned risks until after expiration of current policy, new policy issued pursuant to such assignment is properly made effective as of time of completion of such statutory and bureau requirements, rather than as of expiration date of preceding policy." *Roeder v Kruger*, 223 M 79, 25 NW(2d) 686.

79.26 BUREAU TO ADOPT RULES

Section 79.26 invests the compensation bureau with power to adopt necessary rules to carry out its functions, and the bureau did not exceed its power in promulgating a rule requiring insurer canceling a compensation policy to immediately file notice thereof with the bureau. Where the employee, upon instruction of his foreman, performed services outside of his employ for a third party, and was injured in so doing, his employer's compensation policy covered the employee while thus engaged. *Hurley v Chaffee*, 231 M 362, 43 NW(2d) 281.

79.30 SUBROGATION UPON INSOLVENCY

Right of subrogated insurer to recover under the Federal Tort Claims Act. 32 MLR 846.

SECURITIES

CHAPTER 80

SECURITIES DIVISION

NOTE: The state securities commission (consisting of the public examiner, the attorney general or his deputy, and the commissioner of insurance) was created by Laws 1917, Chapter 429. Laws 1919, Chapter 105, substituted the superintendent of banks for the commissioner of insurance and added enforcement provisions. Laws 1921, Chapter 426, provided for three commissioners appointed by the governor. Laws 1925, Chapter 192, entirely revised the law, superseding Laws 1917, Chapter 429, as amended. By Laws 1925, Chapter 426, Article 8, Section 3, the duties of the commissioner were transferred to a single commissioner appointed by the governor. He is ex officio a member of the department of commerce.

The provisions of this chapter do not violate the Minnesota Constitution, Article I, Section 7, or the fourteenth amendment of the U. S. Constitution. These provisions are a valid exercise of the police power of the state. See *State v Nordstrom*, 169 M 214, 210 NW 1001; *Kerst v Nelson*, 171 M 191, 213 NW 904; *State v Swanson*, 172 M 277, 215 NW 177; *Streissguth v Chase*, 198 M 17, 268 NW 638; *State v Golden*, 216 M 97, 12 NW(2d) 617; *State v Lorentz*, 221 M 336, 22 NW(2d) 313; *Sivertsen v Bancamerica-Blair*, 43 F. Supp. 233.

80.01 DEFINITIONS

Contracts for deed and deeds to burial lots in new cemetery as securities within the Blue Sky Law. 31 MLR 203.

Since the cemetery lots were sold for speculative purposes and not primarily for burial use, and since the value of the lots depended upon future development of the cemetery and not on present assets, the instruments of sale of securities were within the meaning of the Blue Sky Law. *State v Lorentz*, 221 M 366, 22 NW(2d) 313.

In an action by a real estate broker to recover a commission based on an agreement with the seller, the broker need show only that he was the efficient cause of bringing together the seller and a prospective purchaser ready, willing, and able to purchase on the terms stipulated in the agreement between the seller and the broker. A seller cannot relieve himself of the liability to pay this commission by offering to sell on terms more favorable to the prospective purchaser, thereby obviating any necessity for discussing the terms stipulated.

Evidence of seller's conduct in the instant case showed that he did not consider the contract between himself and the broker terminated. *Dahlgren v Olson*, 228 M 379, 37 NW(2d) 438.

Where a broker tendered to the owner an earnest money contract together with a check signed by a buyer but failed to disclose to the owner that the drawer of the check had no account in the bank upon which the check was drawn, a check of which he was well aware, the broker, in failing to make a disclosure of such fact to his principals did not deal fairly with his principals and is guilty of such fraud and bad faith as to forfeit his right to compensation. *Wold v Patterson*, 229 M 361, 39 NW(2d) 162.

A real estate broker cannot enlarge upon his authority by performance of acts in excess thereof without knowledge of his principal, and cannot extend his powers by declarations or assertions with reference thereto. A vendor is bound by the acts of his real estate broker only to the extent of authority, actual or apparent, which has been conferred upon such broker. The broker's authority to sell property is not necessarily inclusive of the right to receive the purchase money thereof on behalf of his principal, and payment to the broker does not constitute payment to the principal in the absence of express or implied authorization to receive the purchase money. *Lynn v Northern Federal Savings & Loan Ass'n*, 235 M 484, 51 NW(2d) 588.

80.05 SECURITIES EXCEPTED FROM OPERATION OF CERTAIN PROVISIONS OF LAW

HISTORY. 1925 c 192 s 2; 1927 c 66 s 30; 1931 c 404 s 1; 1933 c 408 s 4; 1939 c 275 s 1; 1941 c 547 s 2; 1949 c 265 s 1; 1953 c 52 s 1.

80.06 SALES EXCEPTED

HISTORY. Amended, 1949 c 265 s 2; 1953 c 52 s 2.

80.07 SECURITIES REGISTERED BEFORE SALE

Contracts for deed and deeds to burial lots in new cemetery as securities within the Blue Sky Law. 31 MLR 203.

80.12 BROKERS, DEALERS; LICENSES

HISTORY. 1925 c 192 s 9; 1927 c 66 s 7; 1933 c 408 s 10; 1941 c 547 s 9; 1949 c 265 s 3.

80.13 AGENTS' LICENSES

The drawing of a check upon a bank in which the drawer has no funds is a fraud, and when another presents the check, knowing the drawer has no funds

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in the bank to meet the check, he becomes a party to the fraud of the drawer. A broker with whom realty is listed for sale owes a duty of loyalty to his principals and his passing of a check he knows to be worthless constitutes fraud and he may be denied compensation for his services. *Wold v Patterson*, 229 M 361, 39 NW(2d) 162.

80.14 NONRESIDENTS, SERVICE OF PROCESS

NOTE: - Subdivision 2 is excepted from the Rules of Civil Procedure insofar as inconsistent or in conflict therewith.

80.20 FEES

HISTORY. 1925 c 192 s 17; 1933 c 408 s 14; 1937 c 243 s 1; 1941 c 547 s 14; 1943 c 553 s 5, 6; 1953 c 52 s 4.

A real estate broker cannot enlarge upon his authority by performance of acts in excess thereof without knowledge of his principal, and cannot extend his powers by declarations or assertions with reference thereto. A vendor is bound by the acts of his real estate broker only to the extent of authority, actual or apparent, which has been conferred upon such broker. The broker's authority to sell property is not necessarily inclusive of the right to receive the purchase money thereof on behalf of his principal, and payment to the broker does not constitute payment to the principal in the absence of express or implied authorization to receive the purchase money. *Lynn v Northern Federal Savings & Loan Ass'n*, 235 M 484, 51 NW (2d) 588.

80.22 INVESTIGATIONS

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.

80.225 INJUNCTIONS, RECEIVERS

HISTORY. 1925 c 192 s 9; 1927 c 66 s 7; 1933 c 408 s 10; 1941 c 547 s 9; 1951 c 129 s 1.

NOTE: Excepted from the Rules of Civil Procedure insofar as inconsistent or in conflict therewith.

80.23 INFORMATION; INSPECTION; PUBLICITY; REPORTS

HISTORY. 1925 c 192 s 20; 1953 c 52 s 5.

80.27 CERTIORARI FROM SUPREME COURT

Administrative law; judicial review; administrative orders under Federal Administrative Procedure Act. 32 MLR 807.

Administrative law; scope of judicial review; substantial evidence rule under the Administrative Procedure Act and the Labor Management Relations Act. 32 MLR 812.

80.37 VIOLATIONS; PENALTIES

Civil remedy for violation of a criminal statute designed to protect against intentional harm where not expressly provided by statute or common law. 32 MLR 531.

CHAPTER 81

COLONIZATION

81.01-81.06 Repealed, 1947 c 222 s 1.