

Insurance

CHAPTER 60A

INSURANCE DIVISION

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60A.01 SCOPE. This chapter includes the provisions relating to administration in general and the provisions applicable to insurance in general.

[1967 c 395 art 1 s 1]

60A.02 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms shall, for the purposes of chapters 60A to 72A, 69, 70A and 299F, have the meanings ascribed to them.

Subd. 2. Commissioner. "Commissioner" means the commissioner of insurance of the state of Minnesota and, in his absence or disability, his deputy or other person duly designated to act in his place.

Subd. 3. Insurance. "Insurance" is any agreement whereby one party, for a consideration, undertakes to indemnify another to a specified amount against loss or damage from specified causes, or to do some act of value to the assured in case of such loss or damage.

Subd. 4. Company or insurance company. "Company" or "insurance company" includes every insurer, corporation, business trust, or association engaged in insurance as principal.

Subd. 5. Domestic. "Domestic" shall designate those companies incorporated or organized in this state.

Subd. 6. Foreign. "Foreign," when used without limitations, shall designate those companies incorporated in any other state or country.

Subd. 7. Insurance agent. An "insurance agent" is a person acting under express authority from an insurer and on its behalf to solicit insurance, or to appoint other agents to solicit insurance, or to write and countersign policies of insurance, or to collect premiums therefor within this state, or to exercise any or all these powers when so authorized by the insurer.

Subd. 8. Insurance solicitor. An "insurance solicitor" is a person acting under express authority from an insurance agent to solicit insurance for such agent, but without the power or authority to issue or countersign policies for the insurer of which such agent is the duly authorized representative.

Subd. 9. Net assets. "Net assets" means that portion of the excess of the entire assets of an insurance company over its entire liabilities, exclusive of capital, and inclusive of policy liability, available for the payment of its obligations, including capital stock in this state and including as assets deferred premiums on policies written within three months and actually in force; and, in the case of a mutual marine or fire and marine company, its subscription funds and premium notes not more than 30 days past due and uncollected. In the case of a mutual fire insurance company, there shall be included as assets premium notes absolutely

payable within six months from date and given for policies actually in force, when such notes are not more than 30 days overdue. Unpaid guaranty fund subscriptions shall not be included as assets, and guaranty fund certificates upon which there is no liability of the company until all of its other obligations and liabilities are paid shall not be included as a liability.

Subd. 10. **Earned premiums.** "Earned premiums" includes gross premiums charged on all policies written, including all determined excess and additional premiums, less return premiums, other than premiums returned to policyholders as dividends, and less reinsurance premiums and premiums on policies canceled, and less unearned premiums on policies in force. Any participating company which has charged in its premiums a loading solely for dividends shall not be required to include such loading in its earned premiums; provided, a statement of the amount of such loading has been filed and approved by the commissioner.

Subd. 11. **Unearned premiums, insurance reserve, net value policies, and premium reserve.** "Unearned premiums," "insurance reserve," "net value policies," and "premium reserve" severally refer to the liability of an insurance company upon its insurance contracts other than accrued claims computed by rules on valuation herein established.

Subd. 12. **Profits.** "Profits" of a mutual insurance company means that portion of its net earnings not required for payment of losses and expenses, nor set apart for any lawful purposes.

Subd. 13. **Loss payments and loss expense payments.** The terms "loss payments" and "loss expense payments" include all payments to claimants, including payments for medical and surgical attendance, legal expense, salaries and expenses of investigators, adjusters, and field men, rents, stationery, telegraph and telephone charges, postage, salaries and expenses of office employees, home office expenses, and all other payments made on account of claims, whether such payments shall be allocated to specific claims or unallocated.

Subd. 14. **Compensation.** The term "compensation" relates to all insurance effected by virtue of statutes providing compensation to employees for personal injuries irrespective of fault of the employer.

Subd. 15. **Liability.** The term "liability" relates to all insurance, except compensation insurance, against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable.

Subd. 16. **Division of insurance.** "Division of Insurance" of the state of Minnesota also means department of insurance or insurance department.

Subd. 17. **Leasehold estate.** The term "leasehold estate" means an estate in land which includes the ground lease covering the land and any improvements thereon.

Subd. 18. **State.** "State" means any state of the United States of America, the District of Columbia, the commonwealth of Puerto Rico and any other possessions of the United States.

[1967 c 395 art 1 s 2; 1969 c 494 s 1, 2; 1971 c 24 s 9]

60A.03 INSURANCE COMMISSIONER. Subdivision 1. **Commissioner; appointment; term; vacancy; bond.** The commissioner of insurance shall be appointed by the governor, by and with the advice and consent of the senate, for the term of six years, who shall hold office until his duly appointed successor shall have qualified. In case of a vacancy, it shall be filled for the unexpired portion of the term. Before entering upon the discharge of his duties, he shall take, subscribe, and file with the secretary of state the oath of office prescribed by the constitution, and give bond to the state, with sureties to be approved by the state treasurer, in the amount of \$25,000, conditioned for the faithful discharge of his duties during his continuance in office and for the payment without delay to the officer or person entitled by law thereto of all moneys which shall come into his hands by virtue thereof; and devote his entire time to the duties of his office.

Subd. 2. **Powers of commissioner.** (1) **Enforcement.** The commissioner shall have and exercise the power to enforce all the laws of this state relating to insurance, and it shall be his duty to enforce all the provisions of the laws of this state relating to insurance.

(2) **Department of commerce.** The commissioner shall have and possess all the rights and powers and perform all the duties heretofore vested by law in the commissioner of insurance, except that applications for registrations of securities and brokers' licenses under sections 80.05 to 80.27, and all matters pertaining to such registrations and licenses, application for the organization and establishment

of new financial institutions under sections 45.04, 45.06, and 45.07, applications by insuring companies for licenses to carry on business within the state, and all matters pertaining to such licenses, and applications for the consolidation of insuring companies transacting business within the state, shall be determined by the commissioner in the manner provided by the laws defining the powers and duties of the commissioner of banks, the commissioner of insurance, and the state securities commission, respectively, or, in the absence of any law prescribing the procedure, by such reasonable procedure as the commission, as defined in chapter 45, may prescribe.

Subd. 3. Commissioner may appoint. (1) **Official staff.** The commissioner may appoint a deputy or assistant commissioner of insurance to assist him in his duties, an actuary, a chief examiner, a statistician, and such assistants to these employees and such stenographic and clerical help as may be required for the proper conduct of the division of insurance.

(2) **Duties of departmental officials.** In the absence or disability of the commissioner his duties shall be performed by the deputy or assistant commissioner of insurance. The actuary of the department shall, under the direction of the commissioner, make such valuation of life insurance policies as shall be necessary, from time to time, to the proper supervision of life insurance companies transacting business in this state, and shall perform such other actuarial duties, including the visitation and examination of insurance companies, as the commissioner may prescribe. The chief and assistant examiners shall, under the direction of the commissioner, devote their principal time to necessary or required examinations of insurance companies, and perform such other duties as the commissioner may prescribe. Other salaried employees of the division of insurance shall be under the direction of the commissioner and perform such duties, in connection with the division of insurance, as the commissioner may prescribe.

(3) **Consulting actuary, appointment and compensation.** The commissioner may, when he shall deem it necessary, appoint any experienced and competent professional insurance actuary to personally make or conduct, or assist in making or conducting, an examination of any insurance company admitted, or applying for admission, to do business in this state, on condition that the commissioner shall have previously filed with the secretary of state a written declaration designating such person, by name and address, as a consulting actuary of the division of insurance. In this case, the commissioner shall fix a reasonable compensation for the actuary on a per diem basis for the actual time employed in making or conducting, or assisting to make or conduct, the examination, which compensation, together with the amount of the necessary expenses actually incurred by the actuary, including expenses of any necessary appraisal or clerical assistance, shall be charged to the company and paid by it to the actuary.

(4) **Appraiser, appointment and compensation.** The commissioner, when he shall deem it necessary, may appoint any qualified person to make an appraisal of any or all of the assets of any such company. Such person shall be paid for his services such reasonable fees as may be approved by the commissioner and he shall also be paid his necessary expenses actually incurred in connection with his services. Such compensation and expenses shall be paid by the company.

Subd. 4. [Repealed, 1969 c 7 s 2]

Subd. 5. Examination fees and expenses. When any visitation, examination, or appraisal is made by the commissioner, his deputy, actuary other than a consulting actuary appointed under subdivision 3(3) hereof, chief examiner, or certified public accountant retained by the insurance department, the company so examined, including fraternal, township mutuals and reciprocal exchanges, shall pay a fee to the department of insurance of \$45 per day for each and every day necessarily occupied by such a person, and each one thereof, in making the examination, or in making an appraisal of any of the assets of the company. When the visitation, examination, or appraisal is made, or engaged in, by any other person regularly employed in the division of insurance and receiving a salary from the state, the company so examined, including fraternal, township mutuals and reciprocal exchanges, shall pay as fees to the division of insurance the sum of \$35 per day for each and every day necessarily occupied by such other person, and each one thereof, in making or assisting to make the examination, or in making an appraisal of any of the assets of the company. In addition to the fees mentioned herein, the company so examined shall also pay to the division of insurance the necessary expenses of any such person so engaged in connection with any such examination or appraisal. All of these fees and expenses

shall be accounted for and turned in to the state treasury. The necessary expenses of any such person or persons so engaged in connection with any such examination or appraisal shall be paid by the state treasurer to any such person so engaged in connection with the examination or appraisal, upon vouchers of the same, on condition that such expenses shall have been previously charged to such company so examined.

Subd. 6. Examination revolving fund. (1) **Revolving fund created.** There is hereby created the insurance division examination revolving fund for the purpose of carrying on the examination of foreign and domestic insurance companies.

(2) **Moneys in revolving fund.** Such fund shall consist of the \$7,500 appropriated therefor and the moneys transferred to it as herein provided, which are reappropriated to the commissioner of insurance for the purpose of this subdivision.

(3) **Fund to be kept in state treasury.** Such fund shall be kept in the state treasury and shall be paid out in the manner prescribed by law for moneys therein.

(4) **Purposes for which fund may be expended.** Such fund shall be used for the payment of per diem salaries and expenses of special examiners and appraisers, and the expenses of the commissioner of insurance, deputy commissioner of insurance, chief examiner, actuary other than a consulting actuary appointed under subdivision 3(3) hereof, regular salaried examiners and other employees of the insurance division when participating in examinations. Expenses include meals, lodging, laundry, transportation, and mileage. The salary of regular employees of the division of insurance shall not be paid out of this fund.

(5) **Collections to be deposited in fund.** All moneys collected by the division of insurance from insurance companies for fees and expenses of examinations, shall be deposited in the insurance division examination revolving fund.

(6) **Payments from such fund.** Upon authorization by the commissioner of insurance, the moneys due each examiner or employee engaged in an examination shall be paid to him from the insurance division examination revolving fund in the manner prescribed by law.

(7) **Excess over \$7,500 canceled into general fund.** The balance in such fund on June 30 of each year in excess of \$7,500 shall be forthwith canceled into the general fund.

Subd. 7. [1969 c 707 s 1; 1969 c 1129 art 4 s 11]

Subd. 8. Computation of net value; life insurance. (1) **Domestic insurers.** The commissioner shall compute, yearly, the net value of all outstanding policies in every company authorized to insure lives in this state, calculated upon the basis stated in section 61A.25.

(2) **Foreign insurers.** The commissioner may accept the valuation made by the insurance commissioner of the state under whose authority a life company was organized, when that valuation has been made on sound and recognized principles and on the legal basis provided in section 61A.25, or its equivalent, when furnished with a certificate of that commissioner setting forth that value on the last day of the preceding year. Every such life company which fails to promptly furnish this certificate shall, on demand, furnish the commissioner detailed lists of all its policies and securities, and shall be liable for all charges and expenses resulting therefrom.

[1967 c 395 art 1 s 3; 1969 c 7 s 3; 1969 c 399 s 1; 1969 c 707 s 1; 1969 c 1129 art 4 s 11]

60A.031 EXAMINATIONS. Subdivision 1. **Domestic companies.** (1) **When examinations to be made.** The commissioner shall make a thorough examination pursuant to the requirements of this section before any domestic insurance company, including reciprocals and fraternal but excluding township mutuals, is issued its first certificate of authority and begins doing business in this state. Within six months after any such company begins doing business in this state the commissioner shall visit and examine such company and thereafter he shall visit and examine such company for three successive years; after the third successive year he shall visit and examine such company at least once every three years.

The commissioner may also examine at any other time or for any reason.

Whenever a domestic insurance company enters into a management contract or agreement which shifts or changes the management of such company or whenever ownership control of such company is changed, for the purposes of this section such company may be deemed to be beginning business in this state. For the purpose of this section ownership control shall be defined as direct or indirect control or ownership of 50 percent or more of the stock or voting rights in a stock com-

pany, or of sufficient votes to elect a majority of the directors of a mutual company; provided, however, that such control or ownership shall not be determined by including proxies received as a result of a solicitation for proxies to all of the shareholders or members.

The commissioner shall notify the governor whenever examinations required by this section have not been made and inform the governor why such examination has not been made.

(2) **Who may be examined.** The commissioner in making any examination of a domestic insurance company required or authorized by this act may examine any person, association, or corporation:

(a) transacting, having transacted, or being organized to transact the business of insurance in this state;

(b) engaged in or proposing to be engaged in the organization, promotion, or solicitation of shares or capital contributions to or aiding in the formation of a domestic insurance company;

(c) holding shares of capital stock of a domestic insurance company for the purpose of controlling the management thereof as voting trustee or otherwise;

(d) having a contract, written or oral, pertaining to the management or control of a domestic insurance company as general agent, managing agent, attorney-in-fact, or otherwise;

(e) which has substantial control directly or indirectly over any domestic insurance company whether by ownership of its stock or otherwise, or owning stock in any domestic insurance company, which stock constitutes a substantial proportion of either the stock of such domestic insurance company or of the assets of such owner thereof;

(f) which is a subsidiary or affiliate of any domestic insurance company;

(g) which is a licensed agent or solicitor or has made application for such licenses;

(h) engaged in the business of adjusting losses or financing premiums.

Nothing contained in this clause (2) shall authorize the commissioner to examine any person, association, or corporation which is subject to regular examination by another division of the commerce department of this state. The commissioner shall notify such other division when, in his opinion, an examination is advisable.

Subd. 2. Foreign companies. The commissioner may, when he deems it necessary, make an examination of the affairs and an appraisal of any or all of the assets of any foreign insurance company, including reciprocals and fraternal, admitted, or applying for admission, to do business under the laws of this state. In making such an examination or appraisal, the commissioner may examine, in addition to the insurance company, any person, association, or corporation he could examine in connection with the examination or appraisal of a domestic insurance company, if in his discretion he has cause to believe that he is unable to obtain relevant information from such foreign insurance company. In lieu of such an examination the commissioner may, in his discretion, accept the report of examination made by the commissioner of insurance, or corresponding officer, in the state of which the company has its home office; provided, however, that the commissioner shall not accept such a report of examination unless:

(1) the company so examined has sold policies of insurance in the state of examination on which the annual premiums for the preceding calendar year exceeded \$500,000 in amount or 25 percent of its total premiums for said year, or

(2) the company so examined has been doing business in the examining state without a change in management, whether as the result of a management contract, any other agreement or arrangement, or a change in control, for more than three and one-half years.

Subd. 3. Scope and purpose; foreign and domestic examinations. The commissioner, or the person making the examination at his direction, shall have free access to all books, records, securities, documents, and any or all papers relating to the property, assets, business, and affairs of any company or person which may be examined pursuant to this act for the purpose of ascertaining, appraising, and evaluating the assets, conditions, affairs, operations, ability to fulfill obligations, and compliance with all the provisions of law of such company or person insofar as any of the above pertain to the business of insurance of a person, association, or corporation transacting, having transacted, or being organized to transact such

business in this state. Whenever he deems it necessary, the commissioner shall make appraisal of any or all of the company's assets. Every company or person being examined, its officers, directors, and agents, shall provide to the commissioner convenient and free access at all reasonable hours at its office to all its books, records, securities, documents, any or all papers relating to the property, assets, business, and affairs of such company or person. The officers, directors, and agents of such company or person shall facilitate such examination and aid in such examination so far as it is in their power to do so.

The commissioner in examining a company before he has issued the company its first certificate of authority may examine and verify the property of the company in a physical inventory and may appraise or cause to be appraised by competent appraisers appointed by him all assets in which the insurer has or claims an interest or which is security in any form for the payment of any debt or obligation to any person or company, which appraisal may be at the company's expense.

Subd. 4. Examination report; foreign and domestic companies. The commissioner shall make a full and true report of every examination, which shall include (1) a statement of findings of fact relating to the financial status and other matters ascertained from the books, papers, records, documents, and other evidence obtained by investigation and examination or ascertained from the testimony of officers, agents, or other persons examined under oath concerning the business, affairs, assets, obligations, ability to fulfill obligations, and compliance with all the provisions of the law of such company or person and (2) a summary of important points noted in the report, conclusions, recommendations and suggestions as may reasonably be warranted from the facts so ascertained in such examinations. The report of examination shall be verified by the oath of the examiner in charge thereof, and shall be prima facie evidence in any action or proceedings in the name of the state against the company, its officers or agents upon the facts stated therein.

Subd. 5. Order and notification; foreign and domestic companies. The commissioner upon receipt of a verified examiner's report shall notify the company or person examined of the summary of important points noted in the report, conclusions, recommendations, and suggestions of the examiner. Within ten days of receipt of a verified examiner's report the commissioner shall, when he deems it necessary, prepare and forward to the company a written order to comply within a time specified in the order or by law with one or more of the following:

(a) to make good within the time and extent prescribed by law or the commissioner's order any deficiency, whenever its capital, reserves or surplus have become impaired,

(b) to cease and desist from transaction of any business or from any business practice which if transacted or continued might result in the company's condition or further transaction of business being hazardous to its policyholders, its creditors, or the public,

(c) to cease and desist from any other violation of its charter or any law of the state.

Subd. 6. Penalty. Notwithstanding section 72A.05, any person who violates or aids and abets any violation of a written order issued pursuant to this section may be fined not more than \$5,000 for each violation of the order in an action commenced in Ramsey county by the attorney general on behalf of the state of Minnesota and the money so recovered shall be paid into the general fund.

[1967 c 591 s 1; 1969 c 234 s 1, 2; 1969 c 399 s 1]

60A.032 COMMISSIONER'S ORDERS, REPORT. When, upon receipt of an examination report, the commissioner forwards to the company an order based on the report, he shall immediately report the fact to the governor and the attorney general. Within 20 days after submission of the report the commissioner shall submit to the governor and attorney general a supplementary report if the company has not complied with his order.

[1969 c 7 s 1]

60A.04 [Repealed, 1969 c 708 s 62]

60A.05 SUSPENSION OF AUTHORITY; FOREIGN COMPANIES AND THEIR AGENTS. If the commissioner is of the opinion, upon examination or other evidence, that a foreign insurance company is in an unsound condition or, if a life insurance company, that its actual funds are less than its liabilities, or that it is insolvent; or if a foreign insurance company has failed to comply with the law, or if it, its officers, or agents, refuse to submit to examination, or to perform any legal ob-

ligation in relation thereto, he shall revoke or suspend all certificates of authority granted to it or its agents, and shall cause notification thereof to be published in a newspaper authorized to publish annual statements of insurance companies, and no new business shall thereafter be done by it, or its agents, in this state while such default or disability continues, nor until its authority to do business is restored by the commissioner. Unless the ground for revocation or suspension relates only to the financial condition or soundness of the company or to a deficiency in its assets, the commissioner shall notify the company, not less than ten days before revoking its authority to do business in this state; and he shall specify in the notice the particulars of the supposed violation. The district court of any county, upon petition of the company, brought within the ten-day period, shall summarily hear and determine the question whether such violation has been committed, and shall make any proper order or decree therein, and enforce the same by any appropriate process. If the order or decree is adverse to the petitioning company, an appeal therefrom may be taken to the supreme court; and, in the case of such appeal, the commissioner may issue his order revoking the right of the petitioning company to do business in this state until the final determination of the question by the supreme court. Neither this section nor any proceedings thereunder shall affect any criminal prosecutions or proceeding for the enforcement of any fine, penalty, or forfeiture.

[1967 c 395 art 1 s 5; 1969 c 707 s 2]

60A.051 SUSPENSION OF CERTIFICATE OF AUTHORITY; COMPANIES.

Subdivision 1. Grounds. The commissioner of insurance may deny an application for a certificate of authority, or, after a hearing, may suspend or revoke the certificate of authority of an authorized insurer, or deny the renewal thereof, if he finds that:

(a) the board of directors or the principal management of such company is incompetent or untrustworthy or so lacking in insurance company managerial experience as to make its operation hazardous to its policyholders, its stockholders, or to the insurance buying public, or

(b) such company is controlled directly or indirectly through ownership, management, reinsurance transactions or other business relations by any person or persons whose business operations are or have been marked by manipulation of any assets, reinsurance, or accounts as to create a hazard to the company's policyholders, stockholders, or to the insurance buying public.

Subd. 2. Hearing and review. Any person aggrieved by the insurance commissioner's action taken pursuant to the authority granted by this section shall be entitled to a hearing before the commerce commission after which the commerce commission shall make a final determination with regard to such company's certificate of authority or the application therefor. Any person aggrieved by a determination made by the commerce commission shall be entitled to judicial review in the manner provided by Minnesota Statutes, Chapter 15.

Subd. 3. Regulations. The commissioner of insurance shall have the authority to issue regulations designed to implement subdivision 1 in the manner provided by Minnesota Statutes, Chapter 15.

Subd. 4. Stay pending hearing. During the pendency of such hearing before the commerce commission, the order of suspension, revocation, or denial of renewal of a certificate of authority shall be stayed.

Subd. 5. Additional protective measures. Whenever the commissioner, after an examination, deems management of an insurer to be so untrustworthy or so lacking in insurance experience that its further transaction of business will be hazardous to its policyholders, to its creditors, or to the public, or for any other reasons specified herein or in section 60A.05 or chapter 60B, the commissioner may proceed under said section 60A.05 or chapter 60B.

[1967 c 310 s 1-5; 1969 c 6 s 11; 1969 c 708 s 63]

60A.06 KINDS OF INSURANCE WHICH MAY BE WRITTEN.

1. Statutory lines. Insurance corporations may be authorized to transact in any state or territory in the United States; in the Dominion of Canada, and in foreign countries, when specified in their charters or certificates of incorporation, either as originally granted or as thereafter amended, any of the following kinds of business, upon the stock plan, or upon the mutual plan when the formation of such mutual companies is otherwise authorized by law; and business trusts as authorized by law of this state shall only be authorized to transact in this state the following

kind of business hereinafter specified in clause (7) hereof when specified in their "declaration of trust":

(1) To insure against loss or damage to property on land and against loss of rents and rental values, leaseholds of buildings, use and occupancy and direct or consequential loss or damage caused by fire, smoke or smudge, water or other fluid or substance, lightning, windstorm, tornado, cyclone, earthquake, collapse and slippage, rain, hail, frost, snow, freeze, change of temperature, weather or climatic conditions, excess or deficiency of moisture, floods, the rising of waters, oceans, lakes, rivers or their tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, electrical power interruption or electrical breakdown from any cause, railroad equipment, motor vehicles or aircraft, accidental injury to sprinklers, pumps, conduits or containers or other apparatus erected for extinguishing fires, explosion, whether fire ensues or not, except explosions on risks specified in clause (3); provided, however, that there may be insured hereunder the following: (a) explosion of any kind originating outside the insured building or outside of the building containing the property insured, (b) explosion of pressure vessels which do not contain steam or which are not operated with steam coils or steam jackets; and (c) risks under home owners multiple peril policies;

(2) (a) To insure vessels, freight, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank notes, bills of exchange, and other evidences of debt, bottomry and respondentia interest, and every insurance appertaining to or connected with risks of transportation and navigation on and under water, on land or in the air;

(b) To insure all personal property floater risks;

(3) To insure against any loss from either direct or indirect damage to any property or interest of the assured or of another, resulting from the explosion of or injury to (a) any boiler, heater or other fired pressure vessel; (b) any unfired pressure vessel; (c) pipes or containers connected with any of said boilers or vessels; (d) any engine, turbine, compressor, pump or wheel; (e) any apparatus generating, transmitting or using electricity; (f) any other machinery or apparatus connected with or operated by any of the previously named boilers, vessels or machines; and including the incidental power to make inspections of and to issue certificates of inspection upon, any such boilers, apparatus, and machinery, whether insured or otherwise;

(4) To make contracts of life and endowment insurance, to grant, purchase, or dispose of annuities or endowments of any kind; and, in such contracts, or in contracts supplemental thereto to provide for additional benefits in event of death of the insured by accidental means, total permanent disability of the insured, or specific dismemberment or disablement suffered by the insured;

(5) (a) To insure against loss or damage by the sickness, bodily injury or death by accident of the assured or his dependents;

(b) To insure against the legal liability, whether imposed by common law or by statute or assumed by contract, of any employer for the death or disablement of, or injury to, his or its employee;

(6) To guarantee the fidelity of persons in fiduciary positions, public or private, or to act as surety on official and other bonds, and for the performance of official or other obligations;

(7) To insure owners and others interested in real estate against loss or damage, by reason of defective titles, encumbrances, or otherwise;

(8) To insure against loss or damage by breakage of glass, located or in transit;

(9) (a) To insure against loss by burglary, theft, or forgery;

(b) To insure against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptance or any other valuable paper or document, resulting from any cause, except while in the custody or possession of and being transported by any carrier for hire or in the mail;

(c) To insure individuals by means of an all risk type of policy commonly known as the "Personal Property Floater" against any kind and all kinds of loss of or damage to, or loss of use of, any personal property other than merchandise;

(d) To insure against loss or damage by water or other fluid or substance;

(10) To insure against loss from death of domestic animals and to furnish veterinary service;

(11) To guarantee merchants and those engaged in business, and giving credit, from loss by reason of giving credit to those dealing with him; this shall be known as credit insurance;

(12) To insure against loss or damage to automobiles or other vehicles or aircraft and their contents, by collision, fire, burglary, or theft, and other perils of operation, and against liability for damage to persons, or property of others, by collision with such vehicles or aircraft, and to insure against any loss or hazard incident to the ownership, operation, or use of motor or other vehicles or aircraft;

(13) To insure against liability for loss or damage to the property or person of another caused by the insured or by those for whom the insured is responsible, including insurance of medical, hospital, surgical, funeral or other related expense of the insured or other person injured, irrespective of legal liability of the insured, when issued with or supplemental to policies of liability insurance;

(14) To insure against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators, except loss or damage by fire.

Subd. 2. Other lines. Any insurance corporation or association heretofore or hereafter licensed to transact within the state any of the kinds or classes of insurance specifically authorized under the laws of this state may, when authorized by its charter, transact within and without the state any lines of insurance germane to its charter powers and not specifically provided for under the laws of this state when these lines, or combinations of lines, of insurance are not in violation of the constitution or the laws of the state and, in the opinion of the commissioner, not contrary to public policy, provided the company or association shall first obtain authority of the commissioner and meet such requirements as to capital or surplus, or both, as the commissioner shall prescribe. These additional hazards may be insured against by attachment to, or in extension of, any policy which the company may be authorized to issue under the laws of this state. This subdivision shall apply to companies operating upon the stock or mutual plan, reciprocal or interinsurance exchanges.

[1967 c 395 art 1 s 6; 1969 c 7 s 5]

60A.07 AUTHORIZATION AND REQUIREMENTS. Subdivision 1. **Incorporation.** Except when the manner of organization is specifically otherwise provided in sections dealing with such insurers, domestic insurance corporations shall be organized under and governed by chapter 300 and the articles or certificate of incorporation shall be as required under Minnesota Statutes 1965, Section 300.025.

Subd. 2. Powers of insurers. Corporations may be formed for carrying on any one branch of the business of insurance authorized by law, or any two or more branches thereof, which are permitted by law to be transacted by one company; and business trusts as authorized by law of this state may be formed for carrying on the kind of business of insurance specified in section 60A.06, subdivision 1, clause (7).

Subd. 3. Acceptance of laws. Every company, domestic or foreign, shall file with the commissioner its acceptance of the provisions of the insurance laws of the state of Minnesota, and its charter and any amendments thereto, and each such company shall be governed thereby and by those laws relative to corporations in general, so far as applicable and not otherwise specifically provided. No foreign company shall be denied a license in this state because its corporate powers exceed those which it is permitted to exercise under the laws of this state, but no foreign company, which does outside of this state any kind or combination of kinds of insurance not permitted to be done in this state by similar domestic companies, now or hereafter organized, shall be or continue to be authorized to do an insurance business in this state if the commissioner of insurance finds, after ten days notice sent by registered mail to the home office of the company involved, and an opportunity to be heard, that the doing of such kind or combination of kinds of insurance business impairs the financial solvency of the company or its financial ability to meet its obligations incurred in this state, or finds that the doing of such kinds or combination of kinds of insurance business is prejudicial to the interests of policyholders, creditors or the people of this state.

Subd. 4. License required. No insurance company or association, or fraternal beneficiary association, not specifically exempted therefrom by law, shall transact the business of insurance in this state unless it shall hold a license therefor from the commissioner.

Subd. 5. [Repealed, 1969 c 7 s 6]

Subd. 5a. **Financial requirements; stock companies.** No insurance company operating upon the stock plan shall be authorized to transact any one of the kinds of business enumerated in section 60A.06, subdivision 1, clauses (1) to (14), unless it shall have paid-up capital stock and surplus of not less than the amounts specified below; provided that after initial authorization has been granted, the surplus shall thereafter be constantly maintained in an amount equal to not less than one-half of the surplus originally required for that kind of business.

	Paid Up Capital Stock	Surplus
Clause (1),	\$200,000	\$200,000
Clause (2),	\$200,000	\$200,000
Clause (3),	\$200,000	\$200,000
Clause (4),	\$300,000	\$300,000
Clause (5),	\$200,000	\$200,000
Clause (6),	\$350,000	\$350,000
Clause (7),	\$200,000	\$200,000
Clause (8),	\$200,000	\$200,000
Clause (9),	\$200,000	\$200,000
Clause (10),	\$200,000	\$200,000
Clause (11),	\$200,000	\$200,000
Clause (12),	\$350,000	\$350,000
Clause (13),	\$200,000	\$200,000
Clause (14),	\$200,000	\$200,000

Subd. 5b. **Financial requirements; mutual companies.** No insurance company operating upon the mutual plan as provided in chapter 66A, shall be authorized to transact any one of the kinds of business enumerated in section 60A.06, subdivision 1, clauses (1) to (3) and (5) to (14), unless in addition to the requirements specified in chapter 66A it shall have met the following requirements as to surplus: As to a mutual company operating on a non-assessable basis, an initial surplus of not less than the amount of surplus enumerated in subdivision 5a for a stock company authorized to transact that kind of business, provided that after initial authorization has been granted, the surplus shall thereafter be constantly maintained in an amount equal to not less than one-half of such initial surplus; as to a mutual company operating on an assessable basis, an initial surplus of not less than one-half of the amount of surplus enumerated in subdivision 5a for a stock company authorized to transact that kind of business, provided that after initial authorization has been granted, the surplus shall thereafter be constantly maintained in an amount equal to not less than one-half of such initial surplus.

No insurance company operating upon the mutual plan shall be authorized to transact the kind of business enumerated in section 60A.06, subdivision 1, clause (4), unless it shall have surplus of not less than \$600,000; provided that after initial authorization has been granted, the surplus shall thereafter be constantly maintained in an amount of not less than \$450,000.

Subd. 5c. **Authorization to transact more than one kind of business.** Any insurance corporation authorized to transact the kinds of business specified in section 60A.06, subdivision 1, clause (4) may also transact the kinds of business specified in section 60A.06, subdivision 1, clause (5), upon meeting the following financial requirements: As to companies operating upon the stock plan, paid-up capital stock of not less than \$450,000 and an initial surplus of not less than \$450,000 which surplus shall thereafter be constantly maintained in the amount of not less than \$225,000; as to companies operating on the mutual plan, an initial surplus of not less than \$900,000 which shall thereafter be constantly maintained in the amount of \$675,000.

Any insurance corporation which prior to January 1, 1949 was authorized to transact personal injury liability insurance and also the kinds of business specified in section 60A.06, subdivision 1, clauses (4) and (5) shall continue to be authorized to transact personal injury liability insurance.

Any stock company may, when authorized by its articles of incorporation, transact any two or all of the kinds of business specified in section 60A.06, subdivision 1, clauses (1) to (3) and (5) to (14), upon meeting the following financial requirements: paid-up capital stock of not less than \$500,000 and an initial surplus of not less than \$500,000 which surplus shall thereafter be constantly maintained in the amount of not less than \$350,000; provided, however, that if the sum of the capital stock and surplus requirements specified in subdivision 5a for the kinds of business to be transacted is less than the amount of the capital stock and surplus requirements stated

in the foregoing clauses of this sentence, then the company may transact those kinds of business upon meeting the capital stock and surplus requirements specified in subdivision 5a for those kinds of business. Any insurance company operating upon the mutual plan as provided in chapter 66A, may, when authorized by its articles of incorporation, transact any two or all of the kinds of business specified in section 60A.06, subdivision 1, clauses (1) to (3) and (5) to (14), upon meeting the following requirements as to surplus which shall be in addition to the requirements specified in chapter 66A: as to mutual companies operating on a non-assessable basis, an initial surplus of not less than \$500,000, which surplus shall thereafter be constantly maintained in the amount of not less than \$350,000; as to mutual companies operating on an assessable basis, an initial surplus of not less than \$250,000, which surplus shall thereafter be constantly maintained in the amount of not less than \$175,000; provided, however, that if the sum of the surplus requirements specified in subdivisions 5a and 5b for the kinds of business to be transacted is less than the amount of the surplus requirements stated in the foregoing clauses of this sentence, then the company may transact those kinds of business upon meeting the surplus requirements specified in subdivisions 5a and 5b for those kinds of business.

Subd. 5d. Effective date; application. Subdivisions 5a to 5e shall be effective August 13, 1967, and thereafter all insurance companies shall meet the revised requirements, provided, however, that any company authorized to transact a particular kind or kinds of insurance as specified in section 60A.06, subdivision 1, on August 13, 1967, may continue to do so without complying with the revised requirements. After August 13, 1967, any insurance company which seeks authority to transact an additional kind or kinds of insurance shall, as a condition to the granting of such authority, comply with the revised requirements of subdivisions 5a to 5e as to such additional kind or kinds of insurance that it is authorized to transact.

Subd. 5e. Minimum requirements; deficiency. Whenever the commissioner finds that the capital or surplus of a stock company, or the surplus of a mutual company, is less than the minimum requirements prescribed by this section, he shall determine the amount of the deficiency and issue an order in writing requiring the insurance company to restore the deficiency within such reasonable period as he shall designate. The commissioner may, by order served upon the insurance company, prohibit the insurance company from issuing any new policies while the deficiency exists. If at the expiration of the designated period the insurance company has not restored the deficiency and filed proof satisfactory to the commissioner, he shall proceed against the insurance company as provided in chapter 60B; provided, however, that if the surplus of a mutual company operating on the nonassessable basis declines below the minimum requirement prescribed by this section for such a company, and if its surplus is equal to or greater than the minimum requirement for a mutual company operating on the assessable basis, it may continue to write on the assessable basis by issuing only assessable policies.

Subd. 6. Reduction of capital stock. When the capital of any domestic stock company is impaired, it may, upon a vote of the majority of the stock, reduce the same to not less than the legal minimum. In this case no part of its assets shall be distributed to the stockholders. Any such company whose capital is not impaired may, by a two-thirds vote of its stock and with the consent of the commissioner, reduce the same to not less than the legal minimum capital and surplus required for such a company. In either case, within ten days after the meeting at which the reduction was made, the company shall submit to the commissioner a certified statement of the proceedings thereof, including the amount of the reduction and its assets and liabilities, verified by its president, secretary, and a majority of its directors. The commissioner shall examine the facts and, if they conform to law and he is of opinion that injury to the public will not result, he shall endorse his approval upon the statement. Upon filing the same with the secretary of state and paying a filing fee of \$5, and duly amending its certificate of incorporation in conformity therewith, it may transact business upon the reduced capital as though the same were its original capital, and the commissioner shall issue a license to that effect. The company may thereafter, by a majority vote of its directors, require the return of every original stock certificate in exchange for a new certificate for such number of shares as each stockholder is entitled to, in the proportion that the reduced capital bears to the original.

Subd. 7. New certificate of authority. Upon application, the commissioner shall examine the proceedings of any domestic company to increase or reduce its

capital stock and, when found conformable to law, shall revoke the old and issue a new certificate of authority to the company to transact business upon the increased or reduced capital.

Subd. 8. Special provisions as to mutual companies. (1) **Amendment of articles or certificate of incorporation.** The certificate of incorporation or articles of association of any domestic insurance company without capital stock, now or hereafter organized and existing under the laws of this state, may be amended in respect to any matter which an original certificate of incorporation or articles of association of a corporation of the same kind might lawfully have contained by the adoption of a resolution specifying the proposed amendment, at a regular meeting of the members thereof or at a special meeting called for that expressly stated purpose, by the affirmative vote of a majority of the members present, in person or by proxy, at the meeting, and by causing the resolution to be embraced in a certificate duly executed by its president and secretary or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner prescribed by law for the execution, approval, filing, recording, and publishing of a like original certificate of incorporation or articles of association.

(2) **Renewal of corporate existence.** Any domestic insurance company or corporation having no capital stock, heretofore or hereafter organized and existing under the laws of this state, whose period of duration has expired or is about to expire, may, on or before the date of the expiration, or within six months after the date of expiration, renew its corporate existence from the date of such expiration for any period permitted by the laws of this state, by the adoption of a resolution to that effect by the affirmative vote of three-fourths of the members present, in person or by proxy, at a regular meeting of the members, or at any special meeting called for that expressly stated purpose, and by causing the resolution to be embraced in a certificate duly executed by its president and secretary or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner prescribed by law for the execution, approval, filing, recording, and publishing of an original certificate of incorporation or articles of association.

(3) **Bylaws.** The bylaws of any domestic insurance corporation without capital stock, in cases where the bylaws must be adopted or approved by the members thereof, may be adopted, altered, or amended at a regular meeting of the members thereof, or at a special meeting called for that expressly stated purpose, by the affirmative vote of a majority of the members present, in person or by proxy, at the meeting.

(4) **Conversion of a domestic mutual into a stock insurance corporation.** A domestic mutual corporation may be converted into a stock insurance corporation as follows:

(a) **Action by board of directors.** The board of directors shall adopt a plan of conversion.

(b) **Plan of conversion.** (i) The plan of conversion shall provide that, upon consummation of the conversion, each policyholder at the date of the passage of the resolution by the board of directors shall be entitled to such shares of stock of the new company as his equitable share of the surplus of the company will purchase. This equitable share shall be determined by independent certified auditors or consulting actuaries and shall be subject to approval by the commissioner. If a policyholder's equitable share of the surplus of the company produces a fractional share, the policyholder shall be given the option of either receiving the value of the fractional share in cash or of purchasing the fractional part of a share that will entitle him to a full share.

(ii) No shares of the corporation being organized shall be issued or subscribed for, formally or informally, directly or indirectly during the conversion except as authorized under subparagraph (i).

(iii) The corporation shall not pay compensation or remuneration of any kind to any person in connection with the proposed conversion, except at reasonable rates for printing costs, and for legal and other professional fees for services actually rendered.

(iv) The plan of conversion shall include a copy of the proposed articles of incorporation which shall comply with the requirements of chapter 300. Except as otherwise specifically provided, the corporation resulting from conversion under this section shall be deemed to have been organized as of the date of issuance of the initial certificate of authority to the mutual corporation being converted.

(c) **Approval by policyholders.** Within 30 days after its adoption by the board of directors, the plan of conversion shall be submitted to the policyholders for ap-

proval by the affirmative vote of a majority of the policyholders entitled to vote, in the manner prescribed by subparagraph (1). Every policyholder as of the date of the adoption under subparagraph (a) shall be entitled to one vote for each policy held by him. Only such policyholders shall be entitled to vote.

(d) **Approval by the commissioner.** (i) Within 30 days after its adoption by the policyholders, the plan of conversion shall be submitted to the commissioner with an application for his approval.

(ii) The commissioner shall not approve if the value of single shares is set at a figure that substantially burdens policyholders who wish to purchase a fractional share under subparagraph (b) (i).

(iii) If the commissioner finds that the plan of conversion has been duly approved by the policyholders, that the conversion would not violate any law and would not be contrary to the interests of the policyholders, he shall approve the plan of conversion and shall issue a new certificate of authority to the corporation.

(e) **Conversion.** After filing an amendment of the articles of incorporation as provided by chapter 300, the corporation shall become a stock corporation and shall no longer be a mutual corporation, and the board of directors shall execute the plan of conversion.

(f) **Securities regulation.** The filing with the department of securities of a certified copy of the plan of conversion as adopted by the policyholders and approved by the commissioner shall constitute registration under chapter 80, of the securities authorized to be issued to policyholders thereunder.

Subd. 9. Retaliatory provision. When the laws of any other state, territory, or country prohibit the organization of or do not provide for the organization of or the licensing in that state, territory, or country of a class or kind of insurance companies or associations organized under the laws of this state and authorized to transact the business of insurance in this state, then companies or associations of the same kind or class of the other state, territory, or country shall not be licensed to do business in this state.

This provision shall not apply to companies or associations, organized under the laws of another state, now licensed to do business in this state.

Subd. 10. Special provisions as to life companies. (1) **Prerequisites of life companies.** No mutual life company shall be qualified to issue any policy until applications for at least \$200,000 of insurance, upon lives of at least 200 separate residents, have been actually and in good faith made, accepted, and entered upon its books and at least one full annual premium thereunder, based upon the authorized table of mortality, received in cash or in absolutely payable and collectible notes. A duplicate receipt for each premium, conditioned for the return thereof unless the policy be issued within one year thereafter, shall be issued, and one copy delivered to the applicant and the other filed with the commissioner, together with the certificate of a solvent authorized bank in the state, of the deposit therein of such cash and notes, aggregating the amount aforesaid, specifying the maker, payee, date, maturity, and amount of each. Such cash and notes shall be held by it not longer than one year, and at or before the expiration thereof to be by it paid or delivered, upon the written order of the commissioner, to such company or applicants, respectively.

(2) **Foreign companies may become domestic.** Any company organized under the laws of any other state or country, which might have been originally incorporated under the laws of this state, and which has been admitted to do business therein for either or both the purpose of life or accident insurance, upon complying with all the requirements of law relative to the execution, filing, recording and publishing of original certificates and payment of incorporation fees by like domestic corporations, therein designating its principal place of business at a place in this state, may become a domestic corporation, and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof.

(3) **Temporary capital stock of mutual life companies.** A new mutual life insurance company which has complied with the provisions of section 60A.07, subdivision 10, clause (1) or an existing mutual life insurance company may establish, a temporary capital of, such amount not less than \$100,000, as may be approved by the commissioner. Such temporary capital shall be invested by the company in the same manner as is provided for the investment of its other funds. Out of the net surplus of the company the holders of the temporary capital stock may receive a dividend of

not more than eight percent per annum, which may be cumulative. This capital stock shall not be a liability of the company except that it shall be retired as soon as, but not before, the surplus of the company remaining after its retirement shall be not less than the temporary capital so established. At the time for the retirement of this capital stock, the holders shall be entitled to receive from the company the par value thereof and any dividends thereon due and unpaid, and thereupon the stock shall be surrendered and canceled, and the right to vote thereon shall cease.

Subd. 11. **Officers bonded.** The secretary and the treasurer of every company shall give bond, which shall be approved by resolution of the directors.

[1967 c 395 art 1 s 7; 1969 c 7 s 7-13; 1969 c 598 s 1; 1969 c 708 s 63]

60A.076 MANAGEMENT OF INSURER; APPROVAL BY COMMISSIONER.

Subdivision 1. No insurer qualified to transact business in this state shall make any contract whereby any person or persons is granted or is to enjoy in fact the management of the insurer to the substantial exclusion of its board of directors, or to have the controlling or pre-emptive right to produce substantially all insurance business for the insurer, unless such contract is filed with the commissioner for his approval. The contract shall be deemed approved 30 days after filing unless disapproved by the commissioner within such 30 day period, subject to such reasonable extension of time as the commissioner may require by notice given within such 30 days. The commissioner shall not unreasonably withhold his approval. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor.

Subd. 2. The commissioner shall disapprove any such contract if he finds that

(a) it subjects the insurer to excessive charges considering the financial condition of the company; or

(b) the contract extends for an unreasonable period of time; or

(c) the contract does not contain fair and adequate standards of performance by the persons granted management powers; or

(d) the persons empowered under the contract to manage the company lack the ability, experience or integrity to manage the company for the proper interests of its policyholders, or its creditors, or the public;

(e) the contract contains provisions which impair the proper interests of the insurer's stockholders, policyholders, members, creditors, or the public.

[1967 c 363 s 1, 2]

60A.08 CONTRACTS OF INSURANCE. Subdivision 1. **Policy to contain entire contract.** A statement in full of the conditions of insurance shall be incorporated in or attached to every policy, and neither the application of the insured nor the bylaws of the company shall be considered as a warranty or a part of the contract, except in so far as they are so incorporated or attached.

Subd. 2. **Corporate name; origin and financial statements.** Every company, domestic or foreign, shall conduct its business, display all signs and advertisements, and issue all policies, circulars, and other documents and publications in this state, in its own corporate name, and every foreign company shall state conspicuously upon a sign at each agency the state or country of its organization. When a company publishes its assets, it shall in the same connection, and with equal conspicuousness, publish its liabilities, computed on the basis allowed for its annual statements; and any publication purporting to show its capital shall state only the amount thereof which has been actually paid in cash.

Subd. 3. **Renewal; new policy.** Any insurance policy terminating by its provisions at a specified expiration date or limited as to term by any statute and not otherwise renewable may be renewed or extended at the option of the insurer, at the premium rate then required therefor, for a specific additional period or periods by a certificate, and without requiring the issuance of a new policy more than once in any five-year period.

Subd. 4. **Contracts; application of Minnesota law; prohibitions.** All contracts of insurance on property, lives, or interests in this state, shall be deemed to be made in this state.

It shall be unlawful for any person, firm, or corporation to solicit or make, or aid in soliciting or making, any contract of insurance not authorized by the laws of this state.

Subd. 5. **Signatures required.** All its policies shall be signed by the secretary or an assistant secretary, and by its president or vice-president, or in their absence, by two directors; provided, that one of the signatures may be a facsimile

signature, if the other is an original signature, and both thereof may be facsimile signatures, if the policy is countersigned by a registrar or other officer or employee duly authorized by the board of directors or executive committee of the company.

Subd. 6. Bankruptcy or insolvency clause. Every bond or policy of insurance issued in this state insuring against either actual loss suffered by the insured, and imposed by law for damages on account of personal injury, death, or injury to property caused by accident, or legal liability imposed upon the insured by reason of such injuries or death, shall, notwithstanding anything in the policy to the contrary, be deemed to contain the following condition:

The bankruptcy or insolvency of the insured shall not relieve the insurer of any of its obligations under this policy, and in case an execution against the insured on a final judgment is returned unsatisfied, then such judgment creditor shall have a right of action on this policy against the company to the same extent that the insured would have, had the insured paid the final judgment.

Subd. 7. Unsatisfied judgment. When a judgment has been rendered by any court in this state against any company holding the commissioner's certificate, and an execution issued thereon has been returned unsatisfied, in whole or in part, and a certified transcript of the docket entry and the clerk's certificate of those facts is filed with the commissioner, he shall forthwith revoke its certificate and give one week's published notice thereof. No new certificate shall issue until such judgment has been fully satisfied and proof thereof filed with him, and the expenses and fees incurred are paid. During this revocation neither the company, nor any of its officers or agents, shall issue any new policy, take any risk, or transact any business, except such as is absolutely necessary in closing up its affairs in this state.

Subd. 8. Policies on which premiums are determined by audits. Any insurance company licensed to do business in this state which issues policies of insurance in this state upon which the premium is determined by means of an audit shall within 60 days from the date of the expiration of any insurance policy so issued request from the insured a statement of the facts and figures necessary to determine the premium thereon. The insured shall furnish such statement of facts and figures within 60 days of the date of the request. Upon failure of the insured to comply within the time specified, then the provisions of this subdivision shall not apply as to such insured. Within 12 months from the date of the expiration of the policy, or within such longer time as the commissioner of insurance may for cause shown direct, the insurer unless it elects to accept the insured's statement shall make a final audit. Failure to make such final audit within the time herein provided shall constitute a waiver of the insurer's right to make such audit and an election to accept the statement furnished by the insured as a basis for determining the premium on such policy. In the event an audit discloses that the insured submitted to the insurer a fraudulent statement of facts and figures, then the insured shall be liable for three times the normal premium. This subdivision shall not apply to policies issued covering workmen's compensation.

Subd. 9. Misrepresentation by applicant. No oral or written misrepresentation made by the assured, or in his behalf, in the negotiation of insurance, shall be deemed material, or defeat or avoid the policy, or prevent its attaching, unless made with intent to deceive and defraud, or unless the matter misrepresented increases the risk of loss.

This subdivision shall not apply to life insurance or accident and health insurance.

[1967 c 395 art 1 s 8]

60A.081 AIRCRAFT INSURANCE. No policy of insurance issued or delivered in this state covering any loss, damage, expense, or liability arising out of the ownership, maintenance, or use of an aircraft, shall exclude or deny coverage because the aircraft is operated in violation of federal or civil air regulations, state law or regulations, or local ordinances. This section does not prohibit the use of specific exclusions or conditions in the policy which relate to:

(1) Certification of an aircraft in a stated category by the federal aviation administration.

(2) Certification of a pilot in a stated category by the federal aviation administration.

(3) Establishing requirements for pilot experience.

(4) Establishing limitations on the use of the aircraft.

[1969 c 629 s 1]

60A.09 LIMITS OF RISK; REINSURANCE. Subdivision 1. **Maximum risk by fire companies.** No fire company shall insure or reinsure in a single risk a larger sum than one-tenth of its net assets; provided, that in the case of a fire company with net assets of more than \$50,000, any portion of any such risk which shall have been reinsured, as authorized by the laws of this state, shall be deducted before determining the limitation of risk prescribed by this subdivision; and, provided, that a mutual fire insurance company organized under clause (2) (a) of section 66A.08, subdivision 2, may insure in a single risk, consisting of a creamery or a cheese factory, a sum equal to one percent of its insurance in force.

Subd. 2. **Reinsurance to be reported by companies other than life.** If any company, other than life, shall, directly or indirectly, effect the reinsurance of any risk taken by it, or any part thereof, it shall make a sworn report thereof to the commissioner, at the time of filing its annual statement, or at such other time as he may request.

Subd. 3. **Penalty for violation.** Every company effecting any reinsurance in violation of the foregoing provisions, and every agent effecting or negotiating the same, shall severally be guilty of a misdemeanor.

Subd. 4. **Reinsurance as to life insurance.** No domestic life insurance company, without permission of the commissioner, shall reinsure any portion of any individual risk in a company not authorized to do business in this state.

Subd. 5. **Reinsurance.** (1) **Definitions.** For the purposes of this subdivision, the word "insurer" shall be deemed to include the word "reinsurer," and the words "issue policies of insurance" shall be deemed to include the words "make contracts of reinsurance."

(2) **Conditions and requirements.** Every insurer authorized to issue policies in this state may reinsure in any other insurer any part or all of any risk or risks assumed by it; but such reinsurance, unless effected (1) with an insurer authorized to issue policies in this state, or (2) with an insurer similarly authorized in another state, territory, or district of the United States, and showing the same standards of solvency and meeting the same statutory and departmental regulations which would be required of or prescribed for such insurer were it at the time of such reinsurance authorized in this state to issue policies covering risks of the same kind or kinds as those reinsured, shall not reduce the reserve or other liability to be charged to the ceding insurer; provided, that nothing in this subdivision shall be construed to permit to a ceding insurer any reduction of reserve or liability through reinsurance effected with an unauthorized insurer. In case such reinsurance effected with an insurer so authorized or so recognized for reinsurance in this state, the ceding insurer shall thereafter be charged on the gross premium basis with an unearned premium liability representing the proportion of such obligation retained by it, and the insurer to which the business is ceded shall be charged with an unearned premium liability representing the proportion of such obligation ceded to it, calculated in the same way. The two parties to the transaction shall together carry the same reserve as the ceding insurer would have carried had it retained the risk.

(3) **Reinsurance of more than 75 percent of insurance liabilities.** Any contract of reinsurance whereby an insurer cedes more than 75 percent of the total of its outstanding insurance liabilities shall, if such insurer is incorporated by or, if an insurer of a foreign country, has its principal office in this state, be subject to the approval, in writing, by the commissioner.

(4) **Actual unearned premium reserve to be carried as liability.** Nothing in this subdivision shall be deemed to permit the ceding insurer to receive, through the cession of the whole of any risk or risks, any advantage in respect to its unearned premium reserve that would reduce the same below the actual amount thereof.

Subd. 6. **Bulk reinsurance, regulation.** (1) No bulk reinsurance agreement entered into by an insurance company, other than life insurance companies, having a capital and surplus or surplus of five million dollars or less, shall be used to reduce the liabilities or expense of the reinsured company until and unless the agreement has been filed with and approved by the commissioner. The commissioner will be deemed to have approved any agreement filed with him unless he notifies

the insurance company of his disapproval within 30 days or requests a reasonable extension of time within such 30 days.

(2) No filing shall be made pursuant to the foregoing clause (1) unless the reinsurance agreement be certified under oath by responsible officers of the reinsurer and the reinsured to contain the entire agreement between the parties to the reinsurance agreement.

Misrepresentations contained in the reinsurance agreement or in any information supplied to the commissioner relative thereto shall be subject to the penalties for perjury.

(3) It shall be unlawful for any reinsurance agreement to contain any provisions which have the effect of nullifying the liability which the reinsurer purports to assume.

(4) For the purposes of this subdivision, "bulk reinsurance" shall mean any quota share, surplus aid or portfolio reinsurance agreement which, of itself or in combination with other similar agreements, assumes 20 percent or more of the liability of the reinsured company.

(5) Every company effecting any bulk reinsurance in violation of the foregoing provisions, and every person effecting or negotiating the same, shall severally be guilty of a misdemeanor.

(6) Reinsurance agreements filed hereunder shall not be matters of public record, but this shall not be construed to limit the disclosure of reinsurance agreements in examination reports.

[1967 c 395 art 1 s 9; Ex1967 c 10 s 1-6]

60A.10 DEPOSITS. Subdivision 1. **Deposit by domestic companies as security for all policyholders required.** No company in this state, other than fire, marine or fire and marine, hail, farmers' mutual, or real estate title insurance companies, shall do business in this state unless it has on deposit with the commissioner, as security for all its policyholders, bonds or other obligations of, or bonds or other obligations insured or guaranteed by, this state, or of the United States, any of the municipalities of this state, or any agency or instrumentality of the foregoing, to an amount, the actual market value of which, exclusive of interest, shall never be less than \$100,000, which bonds or other obligations shall be retained by the commissioner and be disposed of as directed by law.

As long as any policies of the depositing company remain in force, the commissioner shall hold the deposit as security for all holders of its policies.

Subd. 2. Like requirement for foreign companies. Any insurance company of any other state of the United States may file with the commissioner a certificate of the insurance commissioner of the other state that, as such officer, he holds in trust and on deposit for the benefit of all the policyholders of the company a deposit of not less than \$100,000 par value of such securities as are required or permitted to be deposited with him by the laws of that state, these securities to be of the character in which insurance companies are authorized to invest under the laws of his state, stating the items of the securities so held, and that he is satisfied that these securities are worth \$100,000. No deposit shall be required in this state while the deposit, so certified, remains.

Subd. 3. Deposits in compliance with other laws or of foreign companies. The commissioner shall receive and hold in official trust deposits made by any domestic company in compliance with the laws of any other state, to enable it to do business in that state, and in like manner hold deposits made by a foreign company under any law of this state. The company making the deposit shall be entitled to the income thereof and, from time to time, with his consent, when not inconsistent with the law under which it was made, may exchange, in whole or in part, the securities composing the deposit for other approved securities of equal value. Upon application by a domestic company, he may return the whole or any portion of the securities so deposited by it, if satisfied that they are subject to no liability. Upon like application, he may return to a foreign company any deposit made by it when it appears that the company has ceased to do business in this state or the United States, and he is satisfied that it is not subject to any liability in this state, or upon the order of any court of competent jurisdiction. A foreign company which has made a deposit, its trustees, receiver, resident manager, or any creditor or policyholder thereof, may, at any time, institute in the district court of

Ramsey county an action against the state and other proper parties to enforce and terminate the trust created by the deposit. The commissioner shall immediately notify the governor of the action, and furnish the necessary information to answer in behalf of the state, and shall carry out such order and decree as the court shall make therein.

Subd. 4. **Safekeeping of securities on deposit.** The divisions of banking and insurance shall use, for the safekeeping of securities, except such securities as may, for the convenience of the division of banking, be kept in places designated by the commissioner of banks, such space in the safety deposit vault in the office of the state treasurer as may be agreed upon and assigned to such divisions, respectively, by the state treasurer.

Subd. 5. [Repealed, 1969 c 494 s 4]

[1967 c 395 art 1 s 10; 1969 c 494 s 3]

60A.11 INVESTMENTS FOR DOMESTIC COMPANIES. Subdivision 1. **Requirement for payment of capital stock.** The capital of every stock company shall be paid in full, in cash, within six months from the date of its certificate of incorporation, and thereupon a majority of the directors shall certify, under oath, to the commissioner that such payment, in cash, has been made by the stockholders for their respective shares, and is held as the capital of the company, and until then no policy shall be issued.

Subd. 2. **Securities and loans.** Except as otherwise provided by law, the funds of every domestic company shall be invested in, or loaned upon, one or more of the following kinds of securities or property, and under the restrictions and conditions specified in this subdivision:

(1) Bonds or treasury notes or other obligations of the United States; obligations guaranteed by the United States; obligations payable in United States dollars issued or fully guaranteed by International Bank for Reconstruction and Development not exceeding in aggregate face amount five percent of the total admitted assets of such company; national or state bank stock; interest-bearing bonds or certificates of indebtedness or other obligations at market value of this or any other state, or any governmental subdivision or municipal corporation in this or any other state, or of the Dominion of Canada or any province or any governmental subdivision or municipal corporation thereof, having legal authority to issue the same, at market value; or debentures issued by the Federal Housing Administrator or obligations of national mortgage associations;

(2) Notes or bonds secured by first mortgage, or trust deed in the nature thereof, on improved real estate in this or any other state, or in the Dominion of Canada, having a value of at least 50 percent more than the amount of the loan secured thereby or, when the loan is to be fully amortized by installment payments of principal and interest at least annually over a period of not to exceed 30 years, of at least 33½ percent more than the amount of such loan, not including buildings unless insured by policies payable to and held by the security holder, or by a trustee for the security holder: or notes or bonds secured by mortgage, or trust deed in the nature thereof, or other obligations which the United States or any agency or instrumentality thereof has insured or guaranteed or made a commitment to insure or guarantee;

(3) Common stocks upon which dividends of not less than three percent of par or stated value have been regularly paid for three years immediately preceding the investment, or which (1) over the five completed fiscal years immediately preceding date of purchase earned an average amount per annum applicable to dividends at least equal to six percent of the par value (or in case of common stock having no par value, of the issued or stated value of such stock) outstanding at date of purchase, and (2) earned such amount during each of three of said five fiscal years; and bonds, not in default, at market value, of any corporation incorporated by or under the laws of the United States, or any state, or the Dominion of Canada, or any province thereof; or preferred stocks at market value of any solvent corporation incorporated by or under the laws of the United States or any state, or the Dominion of Canada or any province thereof provided such corporation's net income available for fixed charges after deducting federal and state income taxes must have averaged for the five fiscal years preceding investment at least one and one-half times the sum of annual fixed charges, contingent interest and preferred dividends, all computed as of the date of investment; and upon which

bonds or preferred stocks, interest, or dividends have not been in arrears for an aggregate of 90 days within the preceding three years; or in the stock or guaranty fund certificates of any insurance company, whether previously existing or in process of being organized and whether or not engaged in writing the same type of insurance as the acquiring corporation, which investment must be approved by the commissioner; or in the stock or bonds of any real estate holding company, which investment must be approved by the commissioner, whose real estate is used, in whole or in part, in the transacting of the insurance business of such insurance company, either directly or by reinsurance, or in the fee to real estate used, in whole or in part, in such business; or in the stock or bonds of any corporation owning investments in foreign countries used for purposes of legal deposit, when the insurance company transacts business therein direct or as reinsurance;

(4) Promissory notes maturing within six months, secured by the pledge of warehouse receipts issued against commodities deposited in public warehouses; at the time of investing in such notes the market value of the commodities shall exceed the indebtedness secured thereby and the note or pledge agreement shall provide that the holder may call for additional like security or sell the commodities without notice upon depreciation of the security; the insurance company may accept, in lieu of the deposit with it of the warehouse receipts, a trustee certificate issued by any national or state bank at a terminal point, certifying that the warehouse receipts have been deposited with it and are held as security for the notes; the amount invested in the securities mentioned herein shall not, at any time, exceed 25 percent of the capital stock of the company; and

(5) Notes, debentures, or evidences of indebtedness other than bonds issued or guaranteed by a corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, which, (1) over the five completed fiscal years immediately preceding date of purchase, earned an average amount per annum applicable to dividends at least equal to four percent upon the par value (or in case of stock having no par value, then upon its issued or stated value) of all its capital stock outstanding in each of such five years and (2) earned such amount during each of three of said five fiscal years. No investment shall be made under this clause upon which any interest obligation is in default or which has been in default for an aggregate of 90 days within the immediately preceding three-year period.

(6) Loans on pledge of any such securities, but not exceeding 80 percent of the market value of stocks or other securities and 95 percent of the market value of bonds specified in clause (1); and in all loans reserving the right at any time to declare the indebtedness due and payable when in excess of such proportion or upon depreciation of security.

Subd. 3. Debentures of farm mortgage debenture companies. The debentures of farm mortgage debenture companies shall be lawful investments for any trust company or fire insurance company organized under the laws of this state, and for trust funds in charge of any trustee, unless expressly restricted by the person or persons creating such trust; provided, that not more than 20 percent of the capital of any such company or of any such trust funds may be so invested.

Subd. 4. Requirements for investment in bonds of foreign countries. Any domestic insurance company other than a life insurance company lawfully transacting business in any foreign state or country, may invest its funds in the bonds or other equivalent obligations issued by the national government of the foreign state or country, and for the payment of which the faith and credit of the foreign state or country is pledged.

Subd. 5. Additional investments permitted. The funds of any insurance company organized under the laws of this state or licensed to do business therein, in addition to the investments otherwise authorized by law, may be invested in: (a) federal farm loan bonds; (b) loans upon leasehold estates in improved real property where at the date of investment the ground lease shall have an unexpired term of at least five years longer than the term of the loan secured thereby and where the leasehold estate is unencumbered except by the lien reserved in the lease for the payment of rentals and the observance of the other covenants, terms, and conditions of the lease, and where the mortgagee upon default is entitled to be subrogated to all the rights under the leasehold; provided, that no loan on such leasehold estate shall exceed, (a) 75 percent of the market value thereof at the time of such loan, or (b)

80 percent of the market value thereof at the time of such loan if such real property is to be used for commercial purposes and the loan must be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is to be used for commercial purposes, and interest at least annually over a period not to exceed 35 years and the value thereof shall be shown by sworn certificate of a competent appraiser; (c) obligations payable in United States dollars issued or fully guaranteed by The Inter-American Development Bank not exceeding in aggregate face amount five percent of the total admitted assets of such company, less the sum of such company's investments in obligations issued or fully guaranteed by The International Bank for Reconstruction and Development.

Subd. 5a. Purchase of insurance company. A domestic insurance company of any kind, including a life insurance company, may acquire and hold all or part of the capital stock of another insurance company whether or not in the same line of insurance for cash or through the issuance of its own stock in payment of all or part of the purchase price. The limits contained in the investment sections of the insurance code shall not apply to such holdings providing the acquiring company secures the prior approval of the purchase agreement by the commissioner.

Subd. 5b. Organization of subsidiary insurance company. A domestic insurance company of any kind, including a life insurance company, may organize and hold all or part of the capital stock of another insurance company whether or not in the same line of insurance. The limits contained in the investment sections of the insurance code shall not apply to such holdings providing the organizing company secures the prior approval of the commissioner.

Subd. 6. Real estate. The real estate acquired or held by any domestic company, other than a life company, for the convenience and accommodation of its business shall not exceed in value 25 percent of its cash and invested assets, not including real estate acquired or held for the convenience and accommodation of its business. Any domestic insurance company, after having secured approval of the commissioner of insurance therefor, may also acquire and hold real estate for the sole purpose of providing necessary homes and living quarters for its employees. Such real estate shall never exceed three percent of the company's cash assets as shown by its annual statement last filed with the commissioner of insurance. All real property which shall not be necessary for its accommodation in the convenient transaction of its business, or the housing of its employees, shall be sold and disposed of within five years after the same shall have ceased to be necessary for the accommodation of its business, or the housing of its employees, and it shall not hold this property for a longer period unless it shall procure a certificate from the commissioner of insurance that its interest will suffer materially by the forced sale thereof, in which event the time for sale may be extended to such time as the commissioner shall direct in the certificate.

Subd. 7. Investments in name of company or nominee and prohibitions. All of the funds of an insurance company other than a life insurance company shall be held in its corporate name or its nominee name, except that investments may be held under the name of a nominee of a bank or trust company if the securities are kept under a custodial arrangement with such bank or trust company. Such custodial arrangements shall be evidenced by an agreement and shall meet the following requirements:

(1) The securities shall be held by a bank or trust company licensed by the United States or any state thereof; and

(2) the agreement shall provide that the securities so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the company making the deposit.

No officer, director, or member of any committee passing on investments shall borrow any of such funds, or become, directly or indirectly, liable as a surety or endorser for or on account of loans thereof to others, or receive to his own use any fee, brokerage, commission, gift, or other consideration for, or on account of, any loan made by or on behalf of the company.

Subd. 8. Life insurance company investments not included. The investment provisions of this section, other than subdivisions 5a and 5b, shall not apply to investments of life insurance companies.

[1967 c 395 art 1 s 11; 1969 c 7 s 14-16; 1969 c 494 s 5-11]

60A.12 ASSETS AND LIABILITIES. Subdivision 1. **Valuation and admissibility of life company assets.** In valuing the assets which compose the legal reserve of a life company, its real estate, stocks, and bonds shall be so rated that the average annual income thereof shall not be less than three percent, and if any asset produces less it shall be rated at its value upon a three percent basis. Loans and credits shall not be allowed for more than their face value, nor shall any asset be appraised for more than its market value. Only such assets shall be allowed as are available for payment of losses in this state, including an electronic computer or data processing machine or system heretofore or hereafter purchased for use in connection with the business of a life company, provided such machine or system shall have an original cost of not less than one hundred thousand dollars nor more than three percent of the admitted assets of the company and such cost shall be amortized in full over a period not to exceed ten full calendar years. Any deposit or fund set apart as security for a particular liability may be set off to an amount not exceeding such liability. The amount of any interest bearing lien against any policy or loan thereon, not exceeding the net value or premium reserve of such policy, computed under the provisions of this chapter, may likewise be allowed against liability thereunder. Stockholders' obligations of any description shall not be rated as part of the assets of any company, unless secured by sufficient approved collateral.

Subd. 2. **Admitted assets of insurance companies other than life.** The admitted assets of an insurance company other than life shall include, in addition to all other admitted assets, an electronic computer or data processing machine or system heretofore or hereafter purchased for use in connection with the business of the company, provided that such machine or system shall have an original cost of not less than \$100,000 nor more than three percent of the admitted assets of the company and such cost shall be amortized in full over a period not to exceed ten full calendar years.

Subd. 3. **Valuation of evidences of indebtedness.** All bonds or other evidences of debt, having a fixed term and rate, held by an insurance company or fraternal beneficiary association authorized to do business in this state may, if amply secured and not in default as to principal and interest, be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield, in the meantime, the effective rate of interest at which the purchase was made; provided, that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase; and, provided, that the commissioner shall have full discretion in determining the method of calculating values according to the foregoing rule. If the notes or bonds secured by mortgage or trust deed in the nature thereof which the federal housing administrator has insured, or made a commitment to insure, are purchased above par, they may, if not in default as to principal and interest, be valued during the first five years after purchase on the basis of the purchase price adjusted in equal annual instalments to bring the value to par at the end of five years.

Subd. 4. **Unearned premiums reserve.** (1) **For companies other than life or title.** To determine the policy liability of any company other than life or title insurance, and the amount the company shall hold as reserve, the commissioner shall take 50 percent of the aggregate premiums, on policies running one year or less from date of policy, and a pro rata rate amount on policies running more than one year from date of policy, except upon inland and marine risks, which he shall compute by charging 50 percent of the amount of premium written in its policies upon yearly risks and upon risks covering more than one passage not terminated, and the full amount of premiums written in policies upon all other inland and marine risks not terminated. In case of any fire and marine company with less than \$200,000 capital admitted to transact in this state fire business only, the full amount of premiums written in its marine and inland navigation and transportation policies shall be charged as liability.

(2) **Special provisions for mutual fire companies with a contingent liability.** In case of a mutual fire insurance company with a policyholders' contingent liability fixed by its bylaws and in its policies as provided by law, to determine the amount of this reinsurance reserve, the commissioner shall take 25 percent of the aggregate premiums running one year or less from date of policy, and 50 percent of the pro rata amount on policies running more than one year from date of policy.

(3) **Casualty companies writing liability or workmen's compensation.** In case of a casualty insurance company writing insurance against loss or damage resulting from accident to or injuries suffered by an employee or other person and for which the insured is liable, and under insurance against loss from liability on account of the death of or injury to an employee not caused by the negligence of an employer, he shall charge as a liability, in addition to the capital stock and all other outstanding indebtedness of the corporation:

The premium reserve on policies in force, equal to 50 percent of the gross premiums charged for covering the risks; provided, that the commissioner may, in his discretion, charge a premium reserve equal to the unearned portions of the gross premiums charged, computed on each respective risk from the date of the issuance of the policy.

(4) **Provision for annual payment term policies.** A policy for a term of years on which the premium is payable annually shall be considered a policy for one year.

Subd. 5. Loss reserves. (1) **For other than liability and workmen's compensation.** The reserve for outstanding losses, other than compensation and liability, at least equal to the aggregate estimated amounts due or to become due on account of all losses and claims of which the corporation has received notice; provided, that such loss reserve shall also include the estimated liability on any notices received by the corporation of the occurrence of any event which may result in a loss, and the estimated liability for all losses which have occurred but on which no notice has been received; (for the purpose of such reserves, the corporation shall keep a complete and itemized record showing all losses and claims on which it has received notice, including all notices received by it of the occurrence of any event which may result in a loss.)

(When, in the judgment of the commissioner, the loss reserves, calculated in accordance with the foregoing provisions, are inadequate, he may, in his discretion, require the corporation to maintain additional reserves).

(2) **For liability losses.** The reserve for outstanding losses under insurance against loss or damage from accident to or injuries suffered by the employee or other person and for which the insured is liable, computed as follows:

(a) For all liability suits being defended under policies written more than

(aa) ten years prior to the date as of which the statement is made, \$1,500 for each suit;

(bb) five, and less than ten, years prior to the date as of which the statement is made, \$1,000 for each suit;

(cc) three, and less than five, years prior to the date as of which the statement is made, \$850 for each suit;

(b) For all liability policies written during the three years immediately preceding the date as of which the statement is made, such reserve shall be 60 percent of the earned liability premium of each of such three years, less all loss and loss expense payments made under liability policies written in the corresponding years; but, in any event, such reserve shall, for the first of such three years, be not less than \$750 for each outstanding liability suit on that year's policies.

(3) **For compensation claims.** The reserve for outstanding losses under insurance against loss from liability on account of the death of or injury to an employee not caused by the negligence of an employer computed as follows:

(a) For all compensation claims under policies written more than three years prior to the date as of which the statement is made, the present values, at four percent interest, of the determined and the estimated future payments;

(b) For all compensation claims under policies written in the three years immediately preceding the date as of which the statement is made, such reserve shall be 65 percent of the earned compensation premiums of each of such three years, less all loss and loss expense payments made in connection with such claims under policies written in the corresponding years; but in any event, in the case of the first year of any such three-year period, such reserve shall be not less than the present value, at four percent interest, of the determined and the estimated unpaid compensation claims under policies written during such year.

Subd. 6. Unallocated loss expense payments. (1) **Liability.** All unallocated liability loss expense payments made in a given calendar year subsequent to the

first four years in which an insurer has been issuing liability policies shall be distributed as follows: 35 percent shall be charged to the policies written in that year, 40 percent to the policies written in the preceding year, ten percent to the policies written in the second year preceding, ten percent to the policies written in the third year preceding, and five percent to the policies written in the fourth year preceding; and such payments made in each of the first four calendar years in which an insurer issues liability policies shall be distributed as follows: in the first calendar year 100 percent shall be charged to the policies written in that year, in the second calendar year 50 percent shall be charged to the policies written in that year and 50 percent to the policies written in the preceding year, in the third calendar year 40 percent shall be charged to the policies written in that year, 40 percent to the policies written in the preceding year, and 20 percent to the policies written in the second year preceding, and in the fourth calendar year 35 percent shall be charged to the policies written in that year, 40 percent to the policies written in the preceding year, 15 percent to the policies written in the second year preceding, and ten percent to the policies written in the third year preceding, and a schedule showing such distribution shall be included in the annual statement.

(2) **Workmen's compensation.** All unallocated compensation loss expense payments made in a given calendar year subsequent to the first three years in which an insurer has been issuing compensation policies shall be distributed as follows: 40 percent shall be charged to the policies written in that year, 45 percent to the policies written in the preceding year, ten percent to the policies written in the second year preceding, and five percent to the policies written in the third year preceding; and such payments made in each of the first three calendar years in which an insurer issues compensation policies shall be distributed as follows: in the first calendar year 100 percent shall be charged to the policies written in that year, in the second calendar year 50 percent shall be charged to the policies written in that year, and 50 percent to the policies written in the preceding year, in the third calendar year 45 percent shall be charged to the policies written in that year and 45 percent shall be charged to policies written in the preceding year and ten percent to the policies written in the second year preceding, and a schedule showing such distribution shall be included in the annual statement.

Subd. 7. Liability and workmen's compensation reserves subject to increase. When, in the judgment of the commissioner, the liability or compensation loss reserves of any insurer under his supervision, calculated in accordance with the foregoing provisions, are inadequate, he may, in his discretion, require such insurer to maintain additional reserves based upon estimated individual claims or otherwise.

Subd. 8. Liability and workmen's compensation experience to be included in annual statement. Each insurer that writes liability or compensation policies shall include in the annual statement required by law a schedule of its experience thereunder in such form as the commissioner may prescribe.

Subd. 9. Exemption. This section shall not apply to farmers' mutual insurance companies.

[1967 c 395 art 1 s 12]

60A.13 ANNUAL STATEMENT, INQUIRIES, ABSTRACTS, PUBLICATION THEREOF. Subdivision 1. **Annual statements required.** Every insurance company, including fraternal beneficiary associations, doing business in this state, shall transmit to the commissioner, annually, on or before March first, upon blanks furnished by him, a verified statement of its entire business and condition during the preceding calendar year, but limited in case of a foreign company, except one engaged in life insurance, to its business and condition in the United States. Such statements shall also contain in a separate verified schedule, all details required by law for assessment, for taxation. Such statement shall be in such form and shall contain such matters as the commissioner shall prescribe, and it may be varied as to different types of insurers, as shall seem to him best adapted to elicit a true exhibit of the condition of each such insurer.

Subd. 2. Commissioner may inquire and require reply under oath. The commissioner may also address to any insurer, including fraternal beneficiary associations, township mutuals and interinsurance exchanges, or its officers, any inquiry in relation to its transactions or conditions, or any matter connected therewith. Every insurer, or person so addressed, shall reply in writing to such inquiry

promptly and truthfully, and such reply shall be verified, if required by the commissioner, by such individual or by such officer or officers of an insurer as he shall designate.

Subd. 3. Abstract prepared and publication. If approved by the commissioner, a summary of such statement, prepared by the commissioner, together with a certificate of approval, shall be published, and proof of publication filed with him before September first, following, in default whereof he shall have such publication and proof made at the expense of the company.

Subd. 4. Required publication. (1) **In legal newspaper.** The publication required by this section shall be made in the place of the company's home office, if within the state, otherwise in each of the three most populous counties of the state, and in all cases at least three times, and in a legal newspaper, conforming to the requirements of sections 331.06 to 331.09, which shall accept and publish such advertisement, at the rates prescribed by law for legal publications. This newspaper shall be entitled to charge and receive for the publication not to exceed the rate prescribed by law for legal publications. Resident mutual insurance companies shall publish the statement in the legal newspaper in the county of the company's home office where there is no legal newspaper published in the place where the home office is situated.

This clause shall in nowise repeal, modify, amend, or affect clause (2) of this subdivision.

(2) **In insurance trade journal.** The publication of the summaries of the annual statements of insurance companies, as required by the provisions of this section, may be made in any insurance trade journal, as defined in this clause, if the owner, or proprietor, or publisher will accept and publish the same at the rates prescribed by law for legal publications, with the same force and effect and in lieu of the publication thereof in a newspaper, as defined in and required by the provisions of clause (1).

Any publication authorized by the provisions of this clause may be made in any insurance trade journal for the county in which it has its permanent office of publication, if it comply with the following requirements: such journal must have been published continuously for ten years prior to any such publication, it must be circulated to a bona fide list of paid subscribers, it must be published to disseminate solely unbiased information relative to all phases of the business of insurance underwriting, and shall not in any way or degree be owned or controlled by any insurance company or organization, and the owner of the same shall have filed with the commissioner an affidavit setting forth the existence of the conditions hereinbefore specified.

Subd. 5. Renewal license based on approved statement. Upon the approval of the statement the commissioner shall issue a renewal license for the succeeding year beginning June first. Any license to a company or its agent, issued after the approval of the statement, shall expire May thirty-first of the year following.

Subd. 6. Company or agent cannot continue business unless statement is filed. No company or agent thereof shall transact any new business in this state after May thirty-first in any year unless it shall have previously transmitted such statement to the commissioner.

Subd. 7. Exceptions. (1) **To file statement.** No fraternal beneficiary association, nor any social corporation paying only sick benefits not exceeding \$250 in any one year, or funeral benefits, or aiding those dependent on a member not more than \$350, nor any subordinate lodge or council which is, or whose members are, assessed for benefits which are payable by a grand body, shall be required to make such statements.

(2) **To prepare abstract and publish.** The commissioner shall not be required to prepare abstracts of the annual statement of fraternal beneficiary associations and reciprocal or interinsurance exchanges, nor shall such associations or exchanges be required to publish an abstract or summary of the statement.

[1967 c 395 art 1 s 13]

60A.131 OTHER BUSINESS AND INSURANCE INTERESTS, DISCLOSURE.
Subdivision 1. Every insurance company authorized to do business in this state shall disclose to the commissioner any changes in the principal management and directors of the company from that listed on page one of the annual statement within ten days of such change.

Subd. 2. Every insurance company authorized to do business in this state shall notify the commissioner within ten days after receipt of notice of any acquisition by any person, association or corporation of stock or other equity security in said insurer where such transaction, directly or indirectly, either involves five percent or more of any class of any equity security of said insurer, or such acquisition results in ownership of five percent or more of any equity security of said insurer.

Subd. 3. All principal management and directors of the company as listed on page one of its annual statement, and any person, association or corporation or any person or persons managing such company under a management contract, who are directly or indirectly the beneficial owners of more than five percent of any class of any equity security of a stock insurer or guaranty fund of a mutual insurer, shall disclose all other interests in excess of five percent which they may have in insurance agencies, other insurance companies, premium finance companies and any other companies whose principal business relates directly to the writing of insurance or the handling of claims, within thirty days following May 21, 1967. Any such interests acquired after May 21, 1967, shall be reported to the commissioner within thirty days after acquisition thereof.

Subd. 4. Every company applying for an initial certificate of authority to do business in this state shall file with the application a statement giving the information required in subdivision 3 as to its principal management, directors and affected holders of its equity securities.

[1967 c 609 s 1-4]

60A.14 FEES. Subdivision 1. **Fees other than examination fees.** In addition to the fees and charges provided for examinations, there shall be paid to the commissioner, and by him accounted for and paid into the state treasury, the following fees:

(1) **By township mutual fire insurance companies.** By township mutual fire insurance companies:

- (a) For filing certificate of incorporation \$25 and amendments thereto, \$10;
- (b) For filing annual statements, \$15;
- (c) For each annual certificate of authority, \$15;
- (d) For filing bylaws \$25 and amendments thereto, \$10.

(2) **By other domestic and foreign companies including fraternal and reciprocal exchanges.** By other domestic and foreign companies including fraternal and reciprocal exchanges:

- (a) For filing certified copy of certificate of articles of incorporation, \$50;
- (b) For filing annual statement, \$30;
- (c) For filing certified copy of amendment to certificate or articles of incorporation, \$50;
- (d) For filing bylaws or amendments thereto, \$10;
- (e) Each company's certificate of authority, \$30, annually;
- (f) For abstract or summary of annual statement for publication when prepared by commissioner, \$50.

(3) **General fees.** General fees: (a) For each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, \$5;

(b) For each copy of paper on file in his office 50 cents per page, and \$2.50 for certifying the same;

(c) For license to procure insurance in unadmitted foreign companies, \$10;

(d) For receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of insurance, as attorney for service of process upon any non-resident agent or insurance company, including reciprocal exchanges, \$5 (which amount shall be paid by the party serving same and may be taxed as other costs in the action);

(e) For valuing the policies of life insurance companies, one cent per one thousand of insurance so valued; (the commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from such company's own actuary or from the commissioner of insurance of the state or territory in which such company shall be domiciled);

(f) For receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, \$50;

(g) For issuing a non-resident agent's license, \$10;

(h) For taking an examination for one line of insurance, \$10 and an additional \$10 for each examination for an additional line of insurance or for re-examination in any one line;

(i) For each new agent's license requested or for the requested renewal of an existing agent's license, the insurer shall remit \$2; and for each amendment requested on the license, the insurer shall remit \$1.

(4) **Fees to be paid into state treasury.** All fees received by the commissioner pursuant to the provisions of this section shall be paid by him into the state treasury.

Subd. 2. Retaliatory provisions. When, by the laws of any other state or nation, any fines, penalties, licenses, or fees additional to, or in excess of, those imposed by this section upon foreign insurance companies and their agents, are imposed upon insurance companies of this state or their agents doing business in such state, the same fines, penalties, licenses, and fees shall be imposed upon all insurance companies of that state and their agents doing business in this state, so long as such laws of such other state remain in force.

[1967 c 395 art 1 s 14; 1969 c 7 s 17; 1969 c 291 s 4]

60A.15 TAXATION OF INSURANCE COMPANIES. Subdivision 1. **Domestic and foreign companies other than town and farmers' mutual and domestic mutuals other than life.** On or before April 15, June 15, September 15 and December 15 of each year following December 31, 1971, every domestic and foreign company, except town and farmers' mutual insurance companies and domestic mutual insurance companies other than life, shall pay to the state treasurer through the commissioner of insurance quarterly installments of the insurer's total estimated tax for the current year based on a sum equal to two percent of the gross premiums less return premiums on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during such year, excepting premiums written for marine insurance as specified in subdivision 6. If unpaid by such dates penalties of ten percent shall accrue thereon, and thereafter such sum and penalties shall draw interest at the rate of one percent per month until paid. Failure of a company to make quarterly payments of at least one fourth of either (a) the total tax paid during the previous calendar year or (b) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this subdivision.

Subd. 2. Domestic mutual insurance companies. On or before April 15, June 15, September 15 and December 15 of each year following December 31, 1971, every domestic mutual insurance company including township and farmers' insurance companies shall pay to the state treasurer through the commissioner of insurance quarterly installments of the insurer's total estimated tax for the current year based on a sum equal to two percent of the gross direct fire, lightning, and sprinkler leakage premiums, less return premiums on all direct business, except auto and ocean marine fire business received by it, or by its agents for it, in cash or otherwise, on property located in this state, during such year. If unpaid by such dates penalties of ten percent shall accrue thereon, and thereafter such sum and penalties shall draw interest at the rate of one percent per month until paid. Failure of a company to make quarterly payments of at least one fourth of either (a) the total tax paid during the previous calendar year or (b) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this subdivision.

Subd. 2a. Procedure for filing and adjustment of statements and taxes. (a) Payment of premium taxes for 1971 shall be paid in two installments. Every insurer subject to premium tax in this state shall make and file a statement of estimated premium tax on or before July 1, 1971. Failure of a company to make payment on July 1, 1971, of at least one half of either (a) the total tax paid during the previous calendar year or (b) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in subdivisions 1 and 2. The second installment shall be due on March 1, 1972, and shall be subject to the provisions of clauses (c) and (d) of this subdivision.

(b) Every insurer required to pay a premium tax in this state shall make

and file a statement of estimated premium taxes for the period covered by the installment tax payment. Such statement shall be in the form prescribed by the commissioner.

(c) On or before March 1, annually every insurer subject to taxation under section 60A.15 shall make an annual return for the preceding calendar year setting forth such information as the commissioner may reasonably require on forms prescribed by him.

(d) On March 1, the insurer shall pay any additional amount due for the preceding calendar year; if there has been an overpayment, such overpayment may be credited without interest on the estimated tax due April 15.

Subd. 3. [Repealed, 1969 c 1001 s 11]

Subd. 4. Return premiums defined. "Return premiums", as used in this section, means any dividend or any unused or unabsorbed portion of premium deposit or assessment that shall be applied toward the payment of any premium, premium deposit, or assessment due from the policyholder or member upon a continuance or renewal of the insurance on account of which such dividend was earned or premium deposit or assessment paid and any portion of premium returned by the company upon cancellation or termination of a policy or membership, except surrender values paid upon the cancellation and surrender of policies or certificates of life insurance.

Subd. 5. Municipality defined. As used in this section "municipality" means a city of any class, a village, a borough, a town, or a township.

Subd. 6. Marine insurance companies. Every domestic and foreign company shall pay to the state treasurer on or before June 1 annually a sum equal to five percent of its taxable underwriting profit, ascertained as hereinafter provided, with respect to all insurance written within this state, during the preceding calendar year, upon hulls, freights, or disbursements, or upon goods, wares, merchandise and all other personal property and interests therein, in course of exportation from, importation into any country, or transportation coastwise, including transportation by land or water from point of origin to final destination in respect to, appertaining to, or in connection with, any and all risks or perils of navigation, transit or transportation, and while being prepared for, and while awaiting shipment, and during any delays, storage, transshipment or reshipment incident thereto, including war risks and marine builder's risks. If unpaid by such date a penalty of ten percent shall accrue thereon, and thereafter such sum and penalty shall draw interest at the rate of one percent per month until paid.

The underwriting profit on such insurance written within this state shall be that proportion of the total underwriting profit of such insurer from such insurance written within the United States which the amount of net premiums of such insurer from such insurance written within this state bears to the amount of net premiums of such insurer from such insurance written within the United States.

The underwriting profit of such insurer on such insurance written within the United States shall be determined by deducting from the net earned premiums on such marine insurance written within the United States during the taxable year, meaning thereby the calendar year next preceding the date on which such tax is due, the following items:

(a) Net losses incurred, meaning gross losses incurred during such calendar year under such marine insurance contracts written within the United States, less reinsurance claims collected or collectible and less net salvages or recoveries collected or collectible from any source applicable to the corresponding losses under such contracts;

(b) Net expenses incurred in connection with such marine contracts, including all state and federal taxes in connection therewith; but in no event shall the aggregate amount of such net expenses deducted exceed forty percent of the net premiums on such marine insurance contracts, ascertained as hereinafter provided; and

(c) Net dividends paid or credited to policyholders on such marine insurance contracts.

In determining the amount of such tax, net earned premiums on such marine insurance contracts written within the United States during the taxable year shall be arrived at as follows:

From gross premiums written on such contracts during the taxable year deduct any and all return premiums, premiums on policies not taken, premiums paid for

reinsurance of such contracts and net unearned premiums on all such outstanding contracts at the end of the taxable year; and add to such amount net unearned premiums on such outstanding marine insurance contracts at the end of the calendar year next preceding the taxable year.

In determining the amount of such tax, net expenses incurred shall be determined as the sum of the following:

(d) Specific expenses incurred on such marine insurance business, consisting of all commissions, agency expenses, taxes, licenses, fees, loss adjustment expenses, and all other expenses incurred directly and specifically in connection with such business, less recoveries or reimbursements on account of or in connection with such commissions or other expenses collected or collectible because of reinsurance or from any other source.

(e) General expenses incurred on such marine insurance business, consisting of that proportion of general or overhead expenses incurred in connection with such business which the net premiums on such marine insurance written during the taxable year bear to the total net premiums written by such insurer from all classes of insurance written by it during the taxable year. Within the meaning of this paragraph, general or overhead expenses shall include salaries of officers and employees, printing and stationery, all taxes of this state and of the United States, except as included in paragraph (d) last above, and all other expenses of such insurer, not included in paragraph (d) last above, after deducting expenses specifically chargeable to any or all other classes of insurance business.

In determining the amount of such tax, the taxable underwriting profit of such insurer on such marine insurance business written within this state, shall be ascertained as follows:

(f) In the case of every such insurer which has written any such business within this state during three calendar years immediately preceding the year in which such taxes were payable, the taxable underwriting profit shall be determined by adding or subtracting, as the case may be, the underwriting profit or loss on all such insurance written within the United States, ascertained as hereinbefore provided, for each of such three years, and dividing by three.

(g) In the case of every such insurer other than as specified in paragraph (f) last above, such taxable underwriting profit, if any, shall be the underwriting profit, if any, on such marine insurance business written within this state during the taxable year, ascertained as hereinbefore provided; but after such insurer has written such marine insurance business within this state during three calendar years, an adjustment shall be made on the three year average basis by ascertaining the amount of tax payable in accordance with paragraph (f) last above.

The tax hereinbefore provided shall be paid annually by every insurer authorized to do in this state the business of marine insurance during any one or more of the next preceding three calendar years, and the calendar year next preceding such June first shall be deemed the taxable year within the meaning of this section.

Every insurer liable to pay the tax hereinbefore provided shall, on or before the first day of June in each year, file with the state treasurer a tax return in the form prescribed by him.

The tax provided for in this section shall apply to the business of the year ending December 31, 1952, and to subsequent years.

Subd. 7. These taxes are in lieu of all other taxes except those on real property in this state. In the case of a domestic or foreign company such sums are in lieu of all other taxes, except those upon real property owned by it in this state, which is taxed the same as like property of individuals.

Subd. 8. Examination of returns; assessments; refunds. The commissioner of insurance shall, as soon as practicable after a return required by this section is filed, examine the same and make any investigation or examination of the company's records and accounts that he may deem necessary for determining the correctness of the return. The tax computed by him on the basis of such examination and investigation shall be the tax to be paid by such company. If the tax found due shall be greater than the amount reported as due on the company's return, the commissioner shall assess a tax in the amount of such excess and the whole amount of such excess shall be paid to the state treasurer within 30 days after notice of the amount and demand for its payment shall have been mailed to the company by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the company on its return which have not yet been paid shall be paid to

the state treasurer within 30 days after notice of the amount thereof and demand for payment shall have been mailed to the company by the commissioner. If the amount of the tax found due by the commissioner shall be less than that reported as due on the company's return, the excess shall be refunded to the company in the manner provided by section 60A.15, subdivision 12, (except that no demand therefor shall be necessary), if they have already paid the whole of such tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 60A.15, subdivision 12, after the expiration of three and one-half years after the filing of the return.

If the commissioner examines returns of a company for more than one year, he may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by section 60A.15, subdivisions 8 to 10, shall be in such form as the commissioner may determine (including a statement) and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the company at the address given in its return, if any, and if no such address is given, then to the last known address.

Subd. 9. Failure to file return, false or fraudulent return filed. If any company required by this section to file any return shall fail to do so within the time prescribed or shall make, wilfully or otherwise, an incorrect, false, or fraudulent return, it shall, on the written demand of the commissioner of insurance, file such return, or corrected return, within 30 days after the mailing of such written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof. If such company shall fail within that time to file such return, or corrected return, the commissioner shall make for it a return, or corrected return, from his own knowledge and from such information as he can obtain through testimony, or otherwise, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable year covered by such return) shall be paid within ten days after the commissioner has mailed to such company a written notice of the amount thereof and demand for its payment. Any such return or assessment made by the commissioner on account of the failure of the company to make a return, or a corrected return, shall be prima facie correct and valid, and the company shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Subd. 10. Collection of tax. The tax required to be paid by this section may be collected in an ordinary action at law by the commissioner of insurance against the company. In any action commenced pursuant to this section, upon the filing of an affidavit of default, the clerk of the district court wherein the action was commenced shall enter judgment for the state for the amount demanded in the complaint together with costs and disbursements.

Subd. 11. Appeals. Either party to an action or a judgment for the recovery of any taxes, interest, or penalties under subdivision 10 hereof, may remove the judgment to the supreme court by appeal, as provided for appeals in civil cases.

Subd. 12. Overpayments, claims for refund. (1) **Procedure, time limit, appropriation.** A company who has paid, voluntarily or otherwise, or from whom there has been collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of insurance a claim for a refund of such excess. Except as provided in subdivision 11 no such claim shall be entertained unless filed within two years after such tax was paid or collected, or within three and one-half years from the filing of the return, whichever period is the longer.

Upon the filing of a claim the commissioner of insurance shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof to the company at the address stated upon the return. If such claim is allowed in whole or in part, the commissioner shall issue his certificate for the refundment of the excess paid by the company, with interest at the rate of two percent per annum computed from the date of the payment or collection of the tax until the date the refund is paid to the company, and the state auditor shall cause such refund to be paid out of the proceeds of the taxes imposed by this section, as other state moneys are expended. So much of the proceeds of such taxes as may be necessary are hereby appropriated for that purpose.

(2) **Denial of claim, court proceedings.** If the claim is denied in whole or in part, the company may commence an action against the commissioner to recover

any overpayments of taxes claimed to be refundable but for which the commissioner has issued no certificate of refundment. Such action may be brought in the district court of the district in which lies the county of its principal place of business, or in the district court for Ramsey county. Such action may be commenced after the expiration of six months after the claim is filed if the commissioner has not then taken final action thereon, and shall be commenced within 18 months after the notice of the order denying the claim.

(3) **Denial of claim, appeal.** Either party to said action may appeal to the supreme court as in other cases.

(4) **Consent to extend time.** If the commissioner and the company have within the periods prescribed in clause (1) consented in writing to any extension of time for the assessment of the tax, the period within which a claim for refund may be filed, or a refund may be made or allowed, if no claim is filed, shall be the period within which the commissioner and the company have consented to an extension for the assessment of the tax and six months thereafter, provided, however, that the period within which a claim for refund may be filed shall not expire prior to two years after the tax was paid.

(5) **Overpayments; refunds.** If the amount determined to be an overpayment exceeds the taxes imposed by this section the amount of such excess shall be considered an overpayment. An amount paid as tax shall constitute an overpayment even if in fact there was no tax liability with respect to which such amount was paid.

Notwithstanding any other provision of law to the contrary, in the case of any overpayment the commissioner of insurance, within the applicable period of limitations, shall refund any balance of more than one dollar to such company if the company shall so request.

Subd. 13. **No liability in case of compliance with laws of other states.** Each domestic insurance company, and its officers, directors, and trustees, may comply with any law of any state, territory, or political subdivision of either, which imposes any license, or tax, and pay same, unless, prior to such payment, such law is expressly held invalid by the United States Supreme Court. No such company, officer, director, or trustee shall be subject to liability by reason of any such compliance or payment either heretofore or hereafter made.

[1967 c 395 art 1 s 15; 1969 c 1001 s 1; 1971 c 575 s 1-3]

60A.16 MERGERS AND CONSOLIDATIONS. Subdivision 1. **Scope.** (1) **Domestic insurance corporations.** Any two or more domestic insurance corporations, formed for any of the purposes for which stock, mutual, or stock and mutual insurance corporations might be formed under the laws of this state, may be

- (a) merged into one of such domestic insurance corporations, or
- (b) consolidated into a new insurance corporation to be formed under the laws of this state.

(2) **Domestic and foreign insurance corporations.** Any such domestic insurance corporations and any foreign insurance corporations formed to carry on any insurance business for the conduct of which an insurance corporation might be organized under the laws of this state, may be

- (a) merged into one of such domestic insurance corporations, or
- (b) merged into one of such foreign insurance corporations, or
- (c) consolidated into a new insurance corporation to be formed under the laws of this state, or
- (d) consolidated into a new insurance corporation to be formed under the laws of the government under which one of such foreign insurance corporations was formed, provided that each of such foreign insurance corporations is authorized by the laws of the government under which it was formed to effect such merger or consolidation.

Subd. 2. **Procedure to be followed.** (1) **Agreement.** The merger or consolidation of insurance corporations can be effected only as a result of a joint agreement entered into, approved, and filed as follows:

- (a) The board of directors of each of such insurance corporations as desire to merge or consolidate may, by majority vote, enter into a joint agreement signed by such directors and prescribing the terms and conditions of merger or consolidation, the mode of carrying the same into effect, with such other details and provisions as are deemed necessary.
- (b) The agreement shall be submitted to the shareholders or members, as the

case may be, of each of the merging or consolidating insurance corporations, at a special meeting duly called for the purpose of considering and acting upon the agreement, and if the holders of two-thirds of the voting power of the shareholders or members present or represented at the meeting of each such insurance corporation shall vote for the adoption of the agreement, then that fact shall be certified on the agreement by the secretary of each insurance corporation, and the agreement so adopted and certified shall be signed and acknowledged by the president and secretary of each of said insurance corporations; provided, however, that in the case of a merger the agreement need not be submitted to the shareholders or members of that one of the insurance corporations into which it has been agreed the others shall be merged, but the agreement may be signed and acknowledged by the president and secretary of such insurance corporation at the direction of the board of directors.

(c) The agreement so adopted, certified and acknowledged shall be delivered to the commissioner of insurance, who, if the agreement is reasonable and if the provisions thereof providing for any transfer of assets and assumption of liabilities are fair and equitable to the claimants and policyholders, shall place his certificate of approval on the agreement and shall file the agreement in his office, and a copy of the agreement, certified by the commissioner of insurance, shall be filed for record in the office of the secretary of state and in the offices of the registers of deeds of the counties in this state in which any of the corporate parties to the agreement have their home or principal offices, and of any counties in which any of the corporate parties have land, title to which will be transferred as a result of the merger or consolidation.

(2) **Articles of incorporation of new company.** (a) If the joint agreement is for a consolidation into a new insurance corporation to be formed under any law or laws of this state, articles of incorporation for such new insurance corporation shall be prepared and delivered to the commissioner of insurance together with the agreement as provided in clause (1) hereof.

(b) Such articles shall be prepared, executed, approved, filed and recorded in the form and manner prescribed in, or applicable to, the particular law or laws under which the new insurance corporation is to be formed.

Subd. 3. Consummation of merger. (1) A merger of one or more insurance corporations into a domestic insurance corporation shall be effective when the joint agreement has been approved and filed in the office of the commissioner of insurance.

(2) A consolidation of insurance corporations into a new domestic insurance corporation shall be effective when the joint agreement and the new articles of incorporation have been approved and filed in the office of the commissioner of insurance.

(3) A merger or consolidation of one or more domestic insurance corporations into a foreign insurance corporation shall be effective according to the provisions of law of the jurisdiction in which such foreign insurance corporation was formed, but not until the joint agreement has been adopted, certified and acknowledged, and copies thereof approved and filed in accordance with subdivision 2, clause (1).

Subd. 4. Effect of merger or consolidation. Upon the consummation of the merger or consolidation as provided in subdivision 3, the effect of such merger or consolidation shall be:

(1) That the several corporate parties to the joint agreement shall be one insurance corporation, which shall be

(a) in the case of a merger, that one of the constituent insurance corporations into which it has been agreed the others shall be merged and which shall survive the merger for that purpose, or

(b) in the case of a consolidation, the new insurance corporation into which it has been agreed the others shall be consolidated;

(2) The separate existence of the constituent insurance corporations shall cease, except that of the surviving insurance corporation in the case of a merger;

(3) The surviving or new insurance corporation, as the case may be, shall possess all the rights, privileges and franchises possessed by each of the former insurance corporations so merged or consolidated except that such surviving or new corporation shall not thereby acquire authority to engage in any insurance business or exercise any right which an insurance corporation may not be formed under the laws of this state to engage in or exercise;

(4) All the property, real, personal and mixed, of each of the constituent in-

insurance corporations, and all debts due on whatever account to any of them, including without limitation subscriptions for shares, premiums on existing policies, and other choses in action belonging to any of them, shall be taken and be deemed to be transferred to and invested in such surviving or new insurance corporation, as the case may be, without further act or deed;

(5) The surviving or new insurance corporation shall be responsible for all the liabilities and obligations of each of the insurance corporations merged or consolidated, in accordance with the terms of the agreement for merger or consolidation; but the rights of the creditors of the constituent insurance corporations, or of any persons dealing with such insurance corporations shall not be impaired by such merger or consolidation, and any claim existing or action or proceeding pending by or against any of the constituent insurance corporations may be prosecuted to judgment as if the merger or consolidation had not taken place, or the surviving or new insurance corporation may be proceeded against or substituted in its place.

Subd. 5. Non-consenting shareholders. (1) When an insurance corporation having capital stock has become a party to a merger or consolidation agreement, as hereinbefore provided, any shareholder of such an insurance corporation who voted against the merger or consolidation at the meeting at which it was authorized, may, at any time within 20 days after such authorization was given, object thereto in writing and demand payment for his shares.

(2) If, after such a demand by a shareholder, the insurance corporation and the shareholder cannot agree upon the value of the shares at the time the merger or consolidation was authorized, such value shall be ascertained by three disinterested persons, one of whom shall be named by the shareholder, another by the insurance corporation and the third by the two thus chosen. The finding of the appraisers shall be final, and if their award is not paid by the insurance corporation within 30 days after it is made, it may be recovered in an action by the shareholder against the insurance corporation. The liability of the insurance corporation to the dissenting shareholder for the value of his shares so agreed upon or awarded shall also be a liability of the surviving or new insurance corporation, as the case may be. Upon payment by the insurance corporation or by the surviving or new corporation to the shareholder of the agreed or awarded price of his shares, the shareholder shall forthwith transfer and assign the shares held by him at, and in accordance with, the request of the corporation.

(3) A shareholder shall not be entitled to payment for his shares under the provisions of this subdivision unless the value of the corporate assets which would remain after such payment would be at least equal to the aggregate amount of its debts and liabilities including outstanding capital stock.

Subd. 6. Disclosure of expenses; prohibitions and penalty. All actual expenses and costs incident to proceedings under the provisions of this section shall be paid by the surviving or new company and an itemized statement of the expenses and costs shall be filed with the commissioner prior to his formal approval. No officer of any such company or employee of the department of insurance, shall receive any compensation, gratuity or otherwise, directly or indirectly, for in any manner aiding, promoting, or assisting in such consolidation or merger.

Any officer, director, or stockholder of any company, or any employee of the state, violating, or consenting to the violation of, the provisions of this subdivision 6 shall be punished by a fine of not less than \$10,000 and by imprisonment for not less than one year.

[1967 c 395 art 1 s 16]

60A.17 AGENTS; SOLICITORS. Subdivision 1. **License required.** No person shall act or assume to act as an insurance agent or solicitor in the solicitation or procurement of applications for insurance, nor in the sale of insurance or policies of insurance, nor in any manner aid as an insurance agent or solicitor in the negotiation of insurance by or with an insurer, including resident agents or reciprocal or interinsurance exchanges and fraternal beneficiary associations, until such person shall obtain from the commissioner a license therefor, which license shall specifically set forth the name of the person so authorized to act as agent or solicitor and the class or classes of insurance for which he is authorized to solicit or countersign policies.

For the purposes of determining whether an agent of a fraternal benefit association must be licensed under this subdivision, the term insurance agent

means any authorized or acknowledged agent of a fraternal benefit association acting as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that the term insurance agent shall not include:

(a) any regular salaried officer or employee of a fraternal benefit association who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(b) any agent or representative of a fraternal benefit association who devotes, or intends to devote, less than 50 percent of his time to the solicitation and procurement of insurance contracts for the fraternal benefit association. Any person who, in the preceding calendar year, has solicited and procured life insurance contracts on behalf of any fraternal benefit association in an amount of insurance in excess of \$50,000, or, in the case of any other kind or kinds of insurance which the fraternal benefit association might write, on the persons of more than 25 individuals and who has received or will receive a commission or other compensation therefor in the total amount of \$1,000 or more, shall be presumed to be devoting, or intending to devote, 50 percent of his time to the solicitation or procurement of insurance contracts for the fraternal benefit association.

Subd. 2. License procedure and requirements. (1) Requisition by insurer. A license to any person to act as insurance agent shall only be granted by the commissioner, upon the written requisition of an insurer, to a qualified person.

(2) **Examination.** To become qualified, a person shall complete a written application furnished by the commissioner, and he shall take and pass the examination prescribed for one or more of the following lines of insurance: fire and marine, automobile, accident and health, life, general casualty, fidelity and surety, farm property perils and farm liability. The examination shall be given only after the applicant has completed a program of studies in a school, which shall include a school conducted by an admitted insurer, a correspondence course given by an admitted insurer, or other such course of study. Said course of study shall consist of a minimum of 20 hours study for each line for which a license application is made. If the applicant has been previously licensed for the particular line of insurance in the state of Minnesota, the requirement of a program of studies or a study course shall be waived. A certification of compliance by an admitted insurer shall accompany the agent's license application. This program of studies in a school or a study course shall not apply to farm property perils and farm liability applicants, or to agents writing such other lines of insurance as the commissioner may exempt from examination by directive.

(3) **Fees.** Prior to his taking the examination, the applicant shall transmit to the commissioner of insurance, by money order or cashier's check payable to the state treasurer, a fee prescribed by section 60A.14, subdivision 1, (3) (h). If an applicant pays an examination fee and within one year from the date of that payment does not either make a written request for a refund or take the examination for which the fee was paid, that fee is forfeited to the state of Minnesota. The license issued shall expire May 31 of each year, unless renewed by written request of the insurer with payment of renewal fee as prescribed by section 60A.14, subdivision 1, (3) (i). Further the insurer shall remit the fee prescribed by section 60A.14, subdivision 1, (3) (i), for each amendment requested on a license.

Any applicant who has held a license as an agent for a specific line within three years prior to his application or renewal application shall be entitled to a renewal of his license for that line without examination.

(4) **Exceptions.** (a) Any officer of a licensed insurer may, without license or other qualification, act in its behalf in the negotiation and consummation of insurance and appoint agents for the company.

(b) Where the agent or solicitor has previously filed with the commissioner such an application, the commissioner may renew his license without requiring further application.

(c) No agent or solicitor licensed on January 1, 1944, shall be required to take an examination to determine his competence to transact business in the lines of insurance for which he was licensed on that date. No insurance agent for a fraternal benefit association shall be required to take an examination to become eligible

for an agent's or solicitor's license if it is certified by one or more licensed fraternal benefit associations that such agent has been acting in the capacity of an agent prior to January 1, 1971.

(d) No examination or program of studies or study course shall be required of an applicant for a license as a non-resident agent who is duly licensed as an agent or broker in the state of his residence, provided such state requires no like examination of licensed agents of this state.

(e) No agent or solicitor for a township mutual shall be required to take an examination to become eligible for an agent's or solicitor's license in farm property perils and farm liability if it is certified by one or more township mutual companies that such agent has been acting in the capacity of an agent at least since January 1, 1971, and no new examination shall be required for eligibility for a license in farm property perils and farm liability for a licensed agent in farm windstorm and hail insurance who was licensed prior to January 1, 1971.

Subd. 2a. Temporary licenses. The commissioner may grant a 90 day temporary license to act as an insurance agent to any one of the following persons to continue the business in one or more lines of insurance of a deceased or disabled agent:

- (a) The agent's spouse;
- (b) The agent's next of kin;
- (c) An employee of the agent;
- (d) The legal guardian of a disabled agent; or
- (e) The legal representative of deceased agent's estate.

No examination or fee shall be required for a temporary license. A temporary license granted in accordance with this subdivision shall not be renewed.

Subd. 3. Brokerage business and non-resident. (1) **Brokerage.** Every insurance agent duly licensed to transact business in this state shall have the right to procure the insurance of risks, or parts of risks, in the class or classes of insurance for which he is licensed in other insurers duly authorized to transact business in this state, but such insurance shall only be consummated through a duly licensed resident agent of the insurer taking the risk.

(2) **Non-resident agents.** (a) A non-resident insurance agent or solicitor placing insurance through a resident insurance agent of this state shall be permitted to do so only when he shall have first made written application for and procured from the commissioner a license therefor, upon a form prescribed by the commissioner, upon the payment of a fee prescribed by section 60A.14, subdivision 1, (3) (g). The license terminates automatically when the license for that line in the state in which he is a resident is terminated for any reason. The license expires one year from its date and shall in no case be granted to a resident of any state which does not permit the licensing of an agent of this state under like circumstances.

(b) Prior to receiving a nonresident's license, the applicant must, on a form prescribed by the commissioner appoint the commissioner as his attorney upon whom may be served all legal process issued in connection with any action or proceeding brought or pending in this state against or involving the licensee and relating to transactions under his nonresident license. The appointment shall be irrevocable and shall continue so long as any such action or proceeding could arise or exist.

(c) Duplicate copies of process shall be served upon the commissioner, accompanied by payment of the fee specified in section 60A.14, subdivision 1, clause (3) (d). Upon receiving such service, the commissioner shall promptly forward a copy thereof by registered or certified mail, with return receipt requested, to the nonresident licensee at his last known address. Process served upon the commissioner in this manner shall for all purposes constitute personal service thereof upon the licensee.

Subd. 4. Solicitors. (1) **Agent may employ.** An insurance agent, duly authorized as such and representing one or more insurers within this state, may employ such solicitors as he may desire to represent him, but these solicitors shall not represent themselves, by advertisement or otherwise, as agents of the insurer or insurers represented by their employer, and they shall in all instances represent themselves only as solicitors for the insurance agents.

(2) **Requirements.** No person shall act, or assume to act, as an insurance solicitor until he shall have obtained from the commissioner a license therefor, and paid a fee of \$10, which license shall be issued to him only on the requisition of an insurance agent duly licensed in this state and the filing of the application and the passing of the examinations required of agents.

Subd. 5. Unfit person not to be employed by insurer. No insurer, its officers, agents, or managers, shall knowingly make application to the commissioner for a license as agent on behalf of any person who is known to the insurer, its officers, agents, or managers, making the application, to be unfit or disqualified to be licensed as an insurance agent, and immediately upon the discovery by the insurer, its officers, agents, or managers, having supervision of the agent, of the unfitness or disqualification, the insurer, or the officers, agents, or managers, shall forthwith request the commissioner, in writing to revoke the license of this agent; nor shall any insurer retain in its employ any agent known by it to be disqualified or unfit to be licensed as an insurance agent, nor shall any agent retain in his employ as solicitor any person disqualified or unfit to be licensed as such.

Subd. 6. Persons who shall not be licensed as agents or solicitors. No person shall be licensed by the commissioner as an insurance agent or solicitor if the commissioner shall be satisfied that the person is incompetent or unqualified to act as an insurance agent or solicitor, or that the person does not in good faith intend to carry on the business of insurance agent or solicitor, or intends to secure a license for the sole purpose of writing insurance upon his own life or property; or that the person is untrustworthy or of bad moral character; or that the person has unreasonably failed to pay over to any insurer, agent, or solicitor, or policyholder or member of any insurance company or association entitled thereto, the whole or any part of any premium or return premium, or moneys or other thing of value in his hands, arising out of any insurance transaction, and due or payable to or belonging to any policyholder or other person, firm or corporation; or that the person has wilfully misrepresented to any person, firm or corporation the terms or conditions of any policy or contract of insurance or the financial standing or condition or manner of doing business of any insurer, agent, or solicitor; or that the person has deceived or defrauded, or attempted to deceive or defraud, any person, firm, or corporation in connection with any insurance transaction, or that the person has been dishonest in connection with any insurance transaction, or that the person has urged or procured any person, firm, or corporation to lapse any policy or contract of insurance in any company or association which is now or has been licensed to do business in the state, to the damage of such person, firm, or corporation, or that the person has violated any of the provisions of the laws of this state in any way relating to insurance or the transaction or negotiation of insurance, or insurance agents or solicitors, or any lawful ruling of the commissioner.

Subd. 7. Revocation of license. (1) **By commissioner.** The commissioner may at any time revoke the license of any insurance agent or solicitor or suspend the same for not less than 30 days if he shall be satisfied that any such licensee is not qualified under the provisions of this section, and he shall give such notice thereof as he deems will best protect the public.

(2) **By company or agent.** The license of any person as agent for any insurer shall likewise be revoked by the commissioner when written request therefor is made by the insurer. The license of any solicitor shall likewise be revoked when written request therefor is made by the agent employing him or by the company whose agent appointed him. Accompanying the notice of termination given to the commissioner by the insurer or agent shall be a statement of the specific reasons constituting the cause for termination. Within 30 days after the insurer or agent gives notice of termination to the commissioner, the insurer or agent shall furnish the agent or solicitor with a current statement of his commission account. Any information, document, record or statement so disclosed or furnished to the commissioner shall be deemed confidential by the commissioner and a privileged communication; provided however that within 10 days after he receives notice of revocation, the agent or solicitor may request of the commissioner and the commissioner shall disclose to the agent or solicitor the specific reason or reasons for termination. Such information, document, record or statement shall not be admissible in whole or in part for any purpose in any action or proceeding against (a) the agent or the insurer or any of its officers, employees, or representatives, submitting or providing such information, document, record or statement, or (b) any person, firm, or corporation furnishing in good faith to such agent or insurer the information upon which the reasons for termination are based.

(3) **Notice of revocation.** Notice of the revocation or suspension shall be given to the person, by mail, and shall be deemed complete if the notice is deposited in

the mails, postage prepaid, directed to the person at his last known place of residence, as disclosed by the application for license on behalf of that person. Notice of the revocation or suspension or the refusal of an agent's license shall, in like manner, be given to the insurer which applied therefor. Notice of the refusal of a solicitor's license shall, in like manner, be given to the applicant therefor.

(4) **Complaint, hearing, bond, reinstatement.** The commissioner, when he deems it advisable, may require any complaint made against an insurance agent or solicitor to be in writing and sworn to by the person making the same. When the commissioner shall deem it advisable, and in all cases where the complaint or the agent or solicitor requests the same in writing, the commissioner shall grant a summary hearing in his office to determine whether or not the license shall be refused, revoked, or suspended and, if an appearance shall not be made at the hearing, the license of the person applying for the same, or on whose behalf application for the same is made, or who is complained against, shall be forthwith refused, revoked, or suspended, as the case may be. When the license of any agent or solicitor has been refused or revoked for cause, no new application for a license shall be entertained by the commissioner for one year thereafter, and then only upon condition that this person shall file with the commissioner a good and sufficient bond, in the sum of \$5,000, for the protection of the citizens of the state, which bond shall be maintained by the licensee in full force and effect for a period of five years immediately following the issuance of the license, unless the commissioner at his discretion shall after two years permit the licensee to sooner terminate the maintenance and filing of such bond.

(5) **Unfitness of any person whose license has expired or has been revoked by the insurer.** Upon proper complaint the commissioner may, in like manner, determine the unfitness of any person whose license as agent or solicitor has expired, or has been revoked upon the request of the insurer for which he was licensed, to be thereafter licensed as insurance agent or solicitor, and record thereof shall be made as in the case of revocation, refusal, or suspension of an agent's or solicitor's license.

(6) **Record of refusals, revocations or suspensions.** The commissioner shall keep a record of the name and address of every person whose license as agent or solicitor has been refused, revoked, or suspended, together with a brief statement of the reasons therefor and the facts connected therewith, which record shall be open to public inspection.

Subd. 8. Redress of person aggrieved. Any person aggrieved by any ruling or order of the commissioner may appeal therefrom to any district court of the state by serving written notice of such intention upon the commissioner, specifying the court, within ten days after the same is made. The commissioner shall thereupon file with the clerk of court a certified copy of his order or ruling and findings of fact upon which the same are based, which shall be prima facie evidence of the facts therein stated. Thereupon the court shall summarily hear and determine the questions involved on the appeal.

Subd. 9. Powers of commissioner. (1) **Witnesses, books and records.** The commissioner shall have full power to summon and compel the attendance of witnesses before him to testify in relation to any matter which is, by the provisions of the laws of this state relating to insurance, a subject of inquiry or investigation, and may require the production of any book, paper, or document deemed pertinent thereto. The summons shall be served in the same manner and have the same effect as subpoenas from district courts of this state. All witnesses summoned shall receive the same compensation as is paid to witnesses in the district court, which shall be paid out of the funds of the department of insurance, upon proper vouchers for the same, signed by the commissioner; and the commissioner shall, at the close of the hearing wherein the witness was subpoenaed, certify to the attendance and mileage of the witnesses, which certificate shall be filed with the vouchers. All investigations held by, or under the direction of, the commissioner may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where the investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

(2) **Administration of oaths.** The commissioner and his deputy or assistant commissioner are each hereby authorized and empowered to administer oaths and affirmations to any person appearing as witness before them; and false swearing in any matter or proceeding shall be perjury and punished as such.

(3) **Contempt.** Any witness who refuses to be sworn or who refuses to testify, or who disobeys any lawful order of the commissioner, his deputy or assistant commissioner, in relation to any investigation, or who fails or refuses to produce any paper, book, or document touching any matter under examination, or who is guilty of any contemptuous conduct, after being summoned to appear before him to give testimony in relation to any matter or subject under examination or investigation, may be summarily punished by the commissioner, his deputy or assistant commissioner, as for contempt by a fine in a sum not exceeding \$100.

Disobedience of any subpoenas in such proceeding, or contumacy of a witness, may, upon application of the commissioner, be punished by any district court in the same manner as if the proceedings were pending in such court.

(4) **Punishment as to agent, solicitor or insurer.** The commissioner shall revoke the license of any agent or solicitor or insurer refusing or neglecting to appear or testify at any hearing held before the commissioner, or failing or refusing to produce any books, papers, or documents demanded by the commissioner, when these persons have been notified by him, in writing, to so appear and testify or produce books, papers, or documents demanded by the commissioner, when these persons have been notified by him, in writing, to so appear and testify or produce books, papers, or documents at the hearing.

(5) **Injunctions.** The commissioner may obtain equitable relief in any district court of this state prior to or concurrent with any other action taken by him.

Subd. 10. Commissions or compensation. No commission or other compensation shall be paid or allowed by any person, firm, or corporation to any other person, firm, or corporation acting, or assuming to act, as an insurance agent or solicitor without a license therefor. A duly licensed agent or solicitor may pay his commissions or direct that his commissions be paid to a partnership of which he is a member, employee or agent, or to a corporation of which he is an officer, employee or agent. This section shall not prevent the payment or receipt of renewal or other deferred commissions to or by any person solely because such person has ceased to hold a license to act as an insurance agent.

Subd. 11. Life company agents. Any person who shall solicit an application for insurance upon the life of another shall, in any controversy between the assured or his beneficiary and the company issuing any policy upon such application, be regarded as the agent of the company and not the agent of the assured.

Subd. 12. Liability for placing insurance in unauthorized company. If any person, regardless of whether he is required to be licensed as an insurance agent or insurance solicitor, participates in any manner in the sale of any insurance policy or certificate for or on behalf of any company which is required to be, but which is not authorized to engage in the business of insurance in this state, such person is personally liable for all premiums, whether earned or unearned, paid by the insured, and such premiums may be recovered by the insured. In addition, he shall be personally liable for any loss the insured has sustained or may sustain if the loss is one resulting from a risk or hazard covered in the issued policy or certificate or which would have been covered if the policy or certificate had been issued to the purchaser of the insurance.

Subd. 13. Agents; variable contracts. (1) **License required.** No person shall sell or offer for sale a contract on a variable basis unless prior to making any such solicitation or sale he shall have obtained from the commissioner a license therefor. Such license shall only be granted, upon the written requisition of an insurer, to a qualified person who holds a current license authorizing him to solicit and sell life insurance and annuity contracts in this state. To become qualified, a person shall complete a written application on a form prescribed by the commissioner and shall take and pass an examination prescribed by the commissioner. Prior to the taking of the examination, or upon re-examination, the applicant shall transmit to the commissioner, by money order or cashier's check payable to the state treasurer, an examination fee of \$10. The license issued shall expire on May 31 of each year, unless renewed by written request of the insurer with payment of a renewal fee of \$2.

(2) **Exceptions.** (a) Any officer of a licensed insurer may, without license or other qualification, act in its behalf in the negotiation and consummation of contracts on a variable basis.

(b) Any person who, on July 1, 1969, holds a valid license authorizing him to solicit and sell life insurance and annuity contracts and who also holds a valid license

issued by the securities division of the department of commerce authorizing him to sell or offer for sale contracts on a variable basis shall be issued a license by the commissioner of insurance upon application therefor and payment of a \$2 fee, which license shall expire on May 31, 1970, unless renewed by an insurer as provided in clause (1).

(3) **Rules and regulations.** The commissioner may by rules and regulations waive or modify any of the foregoing requirements or prescribe such additional requirements as he may deem necessary for the proper sale and solicitation of contracts on a variable basis.

(4) **Other laws applicable.** The provisions of subdivisions 3, 5, 6, 7, 8, 9 and 11 shall, to the extent not inconsistent with the provisions enumerated herein, be applicable to this subdivision.

[1967 c 395 art 1 s 17; 1969 c 7 s 18-20; 1969 c 285 s 1; 1969 c 290 s 1; 1969 c 291 s 1, 2; 1969 c 331 s 1; 1969 c 332 s 1; 1969 c 548 s 1; 1969 c 752 s 17; 1971 c 193 s 1, 2; 1971 c 282 s 1, 2; 1971 c 707 s 1]

60A.18 SALE BY VENDING MACHINES; SCOPE AND REQUIREMENTS.
Subdivision 1. General requirement. No insurance shall be offered for sale, issued or sold by or from any vending machine or appliance or any other medium, device or object designed or used for vending purposes, herein called a device, except as provided in this section.

Subd. 2. Conditions. Resident insurance agents and solicitors licensed under this section to solicit for and to sell policies of personal travel accident insurance providing benefits for accidental bodily injury or accidental death may also solicit applications for and issue or sell such insurance by means of devices supervised by them and placed in locations for convenience of the traveling public, upon the following conditions only:

(1) That each policy to be sold by or from a device is reasonably suited for sale and issuance through a device, and that use of such device therefor in a particular proposed location would be of material convenience to the traveling public;

(2) That the type of device proposed to be used is reasonably suitable and practical for the purpose;

(3) That reasonable means, as determined by the commissioner, are provided for informing the prospective purchaser of any such policy of the benefits, limitations and exclusions of the policy, the premium rates therefor, the name and address of the agent and the name and home office address of the insuring company;

(4) That such device shall be so constructed and operated that it shall retain, or shall be provided with a suitable place for deposit and safe keeping of, a copy of the application, which shall show the date of the application, name and address of the applicant and the beneficiary, and the amount of insurance;

(5) That no policy of insurance sold by or from a device shall be for a period of time longer than the duration of a specified one-way trip or round trip of not to exceed 180 days;

(6) That such device shall have provided on it or immediately adjacent thereto, in a prominent location, adequate envelopes for use of purchasers in mailing policies vended through such device, or that the policy itself, if designed to permit such procedure, may be mailed without an envelope; provided, however, the commissioner may in writing delivered to the agent modify or waive these requirements;

(7) That each such device shall be supervised, inspected and tested by the agent with such frequency as may reasonably be necessary or as may reasonably be required by the commissioner, and should any device not be in good working condition the agent shall promptly cause a notice to be displayed thereon that the same is out of order, and cause said device to be promptly removed from service until it is in proper working order;

(8) That prompt refund by the agent is provided to each applicant or prospective applicant of money deposited in any defective device and for which no insurance, or a less amount than paid for, is actually received;

(9) In addition to, and without limiting the general powers of the commissioner to regulate and supervise insurance business in this state, the commissioner may establish such other and additional rules and regulations for types and locations of devices authorized hereunder, their maintenance and operation and the

methods to be used by the agent in the solicitation and sale of insurance by means of such devices as shall be reasonable and necessary.

Subd. 3. License, application, contents. The application for a license for each device to be used shall be made by the agent in such form and with such information as shall be prescribed by the commissioner. A fee of \$3 for each device shall be paid at the time of making application. Upon approval of the application, the commissioner shall issue to the agent a special vending machine license. The license shall apply to a specific device or to any device of identical type which, after written notice by the agent to the commissioner, is substituted for it. The license shall specify the name and address of the agent, the name and home office address of the insuring company, the name or other identifying information of the policy or policies to be sold, the serial number or other identification of the device and the address, including the location on the premises, where the device is to be in operation; provided, however, that a device for which a license has been issued for operation at a specific address may be transferred to a different address during the license year upon written notice to the commissioner at the time of such transfer. The license for each device shall expire on September 1st of each year, but may be renewed from year to year by the commissioner upon approval of the application by the agent and the furnishing of such information as shall be requested by the commissioner, and the payment of \$3 for each license year or part thereof for each device. Proof of the existence of a subsisting license shall be displayed on or about each such device in use in such manner as the commissioner may reasonably require.

Subd. 4. Suspension or revocation of license. The license for each device shall be subject to expiration, suspension or revocation coincidentally with that of the agent or the insuring company. The commissioner also may suspend or revoke the license as to any device concerning which he finds any conditions upon which the device was licensed as referred to in subdivision 2 have been violated, or no longer exist, or that the device is being used or operated by the agent in violation of the laws of this state; provided, that before suspending or revoking a license for a device, the commissioner shall conduct a hearing in the manner prescribed in chapter 72A, and shall make his determination upon the basis of the standards, conditions and requirements of this section.

[1967 c 395 art 1 s 18]

60A.19 FOREIGN COMPANIES. Subdivision 1. **Requirements.** Any insurance company of another state, upon compliance with all laws governing such corporations in general and with the foregoing provisions so far as applicable and the following requirements, shall be admitted to do business in this state:

(1) It shall deposit with the commissioner a certified copy of its charter or certificate of incorporation and its bylaws, and a statement showing its financial condition and business, verified by its president and secretary or other proper officers;

(2) It shall furnish the commissioner satisfactory evidence of its legal organization and authority to transact the proposed business and that its capital, assets, deposits with the proper official of its own state, amount insured, number of risks, reserve and other securities, and guaranties for protection of policyholders, creditors, and the public, comply with those required of like domestic companies;

(3) By a duly executed instrument filed in the office of the commissioner, it shall appoint him and his successors in office its lawful attorneys in fact and therein irrevocably agree that legal process in any action or proceeding against it may be served upon them with the same force and effect as if personally served upon it, so long as any of its liability exists in this state;

(4) It shall appoint, as its agents in this state, residents thereof, and obtain from the commissioner a license to transact business therein.

Subd. 2. Service of garnishee process. When garnishee process is served upon the commissioner, as attorney for any insurance company, no garnishee fee shall be paid him. After the receipt of copy of the process the insurance company may demand of the attorney of the person making the garnishee the proper fees, and if the demand is not complied with before the day fixed for the disclosure of the garnishee, the proceeding may be dismissed.

Subd. 3. Commissioner appointed attorney for service of process. Before any corporation, association, or company issuing policies of insurance of any character

and not organized or existing pursuant to the laws of this state is admitted to or authorized to transact the business of insurance in this state, it shall, by a duly executed instrument to be filed in the office of the commissioner, constitute and appoint the commissioner and his successors in office its true and lawful attorney, upon whom proofs of loss, any notice authorized or required by any contract with the company to be served on it, summonses and all lawful processes in any action or legal proceeding against it may be served, and that the authority thereof shall continue in force irrevocable so long as any liability of the company remains outstanding in this state.

This instrument shall contain a provision and agreement declaring that the company, association, or corporation desires to transact the business of insurance in this state, and that it will accept a license therefor according to the laws of this state.

In case of the failure of any such insurance company to comply with any of the provisions of subdivisions 3 and 4 of this section, or if it shall violate any of the conditions or agreements contained in the instrument filed, its right to transact insurance business in this state shall cease and it shall be the duty of the commissioner to immediately declare its license revoked; and, in case of revocation, the company shall not be again licensed to transact business in this state for the period of one year from date of the revocation.

Subd. 4. **Fees.** The commissioner shall be entitled to charge and receive a fee prescribed by section 60A.14, subdivision 1, (3) (d), for each notice, proof of loss, summons, or other process served upon him under the provisions of subdivisions 3 and 4, to be paid by the persons serving the same.

Subd. 5. **Provision as to alien companies.** (1) **Deposit.** Such company of any foreign country, except fraternal beneficiary associations, shall not be admitted until, besides complying with the foregoing requirements, it has made a deposit with the commissioner, or with the proper officer of some other state of the United States, of a sum not less than the capital required of a like company by the laws of this state and this deposit shall be of the same class of securities and subject to the same limitations required for the deposit of domestic companies that must by law maintain a deposit.

This deposit shall be in exclusive trust for all its policyholders and creditors in the United States, and for all purposes of the insurance laws shall be deemed its capital.

(2) **Trustees, investments and funds.** Any company of a foreign country may duly appoint one or more citizens of the United States, approved by the commissioner, to hold funds or other property for the benefit of its policyholders and creditors therein. A certified copy of their appointment and of the instrument of trust shall be filed with the commissioner, who shall have the same authority in the premises as in the case of the affairs of all companies. These funds shall be invested in the same securities as required of other insurance companies and, together with the deposits required, shall constitute the assets of the company in respect to its policyholders and creditors in the United States.

Subd. 6. **Retaliatory provisions.** (1) When by the laws of any other state or country any taxes, fines, deposits, penalties, licenses, or fees, other than assessments made by an insurance guaranty association or similar organization, in addition to or in excess of those imposed by the laws of this state upon foreign insurance companies and their agents doing business in this state, other than assessments made pursuant to section 60C.06, are imposed on insurance companies of this state and their agents doing business in that state or country, or when any conditions precedent to the right to do business in that state are imposed by the laws thereof, beyond those imposed upon these foreign companies by the laws of this state, the same taxes, fines, deposits, penalties, licenses, fees, and conditions precedent shall be imposed upon every similar insurance company of that state or country and their agents doing or applying to do business in this state so long as these foreign laws remain in force.

(2) In the event that a domestic insurance company, after complying with all reasonable laws and rulings of any other state or country, is refused permission by that state or country to transact business therein after the commissioner of insurance of Minnesota has determined that that company is solvent and properly managed and after he has so certified to the proper authority of that other state or country, then, and in every such case, the commissioner may in his discretion

forthwith suspend or cancel the certificate of authority of every insurance company organized under the laws of that other state or country to the extent that it insures, or seeks to insure, in this state against any of the risks or hazards which that domestic company seeks to insure against in that other state or country. Without limiting the application of the foregoing provision, it is hereby determined that any law or ruling of any other state or country which prescribes to a Minnesota domestic insurance company the premium rate or rates for life insurance issued or to be issued outside that other state or country shall not be deemed reasonable.

Subd. 7. Policy not invalidated by occurrence of hostilities. No policy of insurance issued to a citizen of this state shall be invalidated by the occurrence of hostilities between any foreign country and the United States.

Subd. 8. Insurance from unlicensed foreign companies. When any person, firm, or corporation desires to obtain insurance upon any property, interests, or risks of any nature other than life insurance in this state in companies not authorized to do business therein he or they shall give bond to the commissioner in such sum as he shall deem reasonable, with satisfactory resident sureties, conditioned that the obligors, on the expiration of a license to obtain such insurance, shall pay to the commissioner, for the use of the state, a tax of two percent upon the gross premiums paid by the licensee. Thereupon the commissioner shall issue such license, good for one year, and all insurance procured thereunder shall be lawful and valid and the provisions of all policies thereof shall be deemed in accordance, and construed as if identical in effect, with the standard policy prescribed by the laws of this state and the insurers may enter the state to perform any act necessary or proper in the conduct of the business. This bond may be enforced by the commissioner in his own name in any district court. The licensee shall file with the commissioner on June thirtieth and December thirty-first annually a verified statement of the aggregate premiums paid and returned premiums received on account of such insurance.

[1967 c 395 art 1 s 19; 1969 c 291 s 3; 1971 c 145 s 21]

60A.20 SURPLUS LINE LAW. Subdivision 1. **Purpose clause.** Insurance transactions with unauthorized insurers are so affected with a public interest as to require regulation, taxation, supervision and control as provided in this section in order to: protect the citizens of this state in transactions involving the purchase of insurance from insurers not authorized to transact business in this state; provide for the public an orderly, reasonable, and regulated access to insurance from unauthorized insurers, where necessary, through qualified licensed and supervised surplus line agents; protect the revenues of this state; protect regulated authorized insurers from unregulated and unfair competition by unauthorized insurers; and regulate and supervise the procurement from unauthorized insurers in accordance with the laws of this state and Public Law 15 known as the McCarran Act.

Subd. 2. Conditions to procurement. If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated surplus line, may be procured from unauthorized insurers through a licensed surplus line agent, subject to the following conditions:

(1) The full amount of insurance required must not be procurable, after diligent effort has been made to do so from among the insurers who are authorized to transact and are actually writing the particular kind and class of insurance in this state, and the amount of insurance eligible for an unauthorized insurer is only the excess over the amount procurable from authorized insurers.

(2) The insurance must not be so procured for the purpose of securing advantages, either as to:

- (a) A lower premium rate than would be accepted by an authorized insurer, or
- (b) Terms of the insurance contract.

Subd. 3. Affidavit by agent. At the time each surplus line insurance contract is procured, the surplus line agent shall execute an affidavit setting forth facts from which it may be determined whether the requirements of subdivision 2 above have been met. Such affidavit shall be filed with the commissioner within 30 days after each surplus line contract is placed.

Subd. 4. Policy to be labeled and bear name of agent. Each insurance contract, cover note, or certificate of insurance procured as a surplus line coverage.

shall have stamped upon it and be initialed by or bear the name of the surplus line agent who procured it, the following:

"This contract is delivered as a surplus line coverage under the Surplus Line Insurance Law and this insurer is not licensed to do business in Minnesota."

Subd. 5. **Insurance valid.** Insurance contracts procured as surplus line coverages from unauthorized insurers in accordance with this section shall be valid and enforceable and the provisions of policies shall be at least as favorable to the insured as any standard policy described by the laws of this state.

Subd. 6. **Agent to be licensed; application, fee, bond.** Any person, while licensed as a resident insurance agent of this state as to property, casualty, and surety insurances, and who is deemed by the commissioner to be qualified therefor by insurance experience and to be trustworthy, may be licensed as a surplus line agent as follows:

(1) Application to the commissioner for the license shall be made on forms furnished by the commissioner.

(2) License fee in the amount of \$50 shall be paid to the commissioner. The license shall expire on May 31 of each year.

Prior to the issuance of license, the applicant shall file with the commissioner, and maintain thereafter for as long as any such license remains in force, a bond, with an authorized corporate surety approved by the commissioner, in favor of the commissioner, in the penal sum of not less than \$5,000 conditioned upon compliance with this section. The commissioner may, in his discretion, require a bond in a larger amount commensurate with the volume of surplus line business transacted or to be transacted by a particular surplus line agent. The aggregate liability of the surety for any and all claims on any such bond shall, in no event, exceed the penal sum thereof. No such bond shall be terminated unless not less than 30 days prior written notice thereof shall be given to the licensee and filed with the commissioner.

Subd. 7. **Requirement of insurers.** No surplus line agent shall procure surplus line insurance contracts from any unauthorized insurer unless the unauthorized insurer meets either of the following requirements:

(1) The unauthorized insurer is an authorized insurer in at least one state of the United States for the kind of insurance involved, and which, if a stock insurer, has capital stock of at least \$500,000, and surplus of at least \$500,000, or, if any other type of insurer, has surplus of at least \$1,000,000; or

(2) The unauthorized insurer, other than one qualified under (1) above, has an established and effective trust fund of at least \$400,000 within the United States, administered by a recognized financial institution and held for the benefit of all its policyholders in the United States or policyholders and creditors in the United States.

An unauthorized insurer assuming any surplus line risk pursuant to this surplus line law shall within 30 days thereafter file with the commissioner a duly executed and sworn affidavit showing facts in support of its qualification under either (1) or (2) above, except that requirement (2) may otherwise be sufficiently evidenced by an affidavit of the trustee institution filed with the commissioner showing the requisite facts and renewed from time to time as the commissioner may reasonably require to reflect the current condition of the trust fund, and any such trustee's affidavit properly filed and maintained shall be sufficient as to all risks placed with that unauthorized insurer pursuant to this surplus line law.

Provided that the foregoing limitations may be waived upon filing with the commissioner a signed statement of the insured requesting insurance in an unauthorized insurer which has an established and effective trust fund of at least \$400,000 within the United States, administered by a recognized financial institution and held for the benefit of all its policyholders in the United States or policyholders and creditors in the United States; provided further that the amount of insurance placed with such unauthorized insurer shall not exceed ten percent of the total risk to be insured.

If at any time the commissioner shall determine, in his judgment, that an unauthorized insurer is not in a safe or solvent financial condition, has refused to pay just claims, or that any further transaction of business by it in this state will be hazardous to residents of this state regardless of whether they are policyholders of the unauthorized insurer, he shall direct that no such insurance shall be placed or renewed with such insurer; and upon his written notice to that effect mailed to licen-

sees under this section, thereafter no insurance shall be placed or renewed with such insurer.

Notwithstanding any provision of this subdivision, the placement by a surplus line agent of insurance with an unauthorized insurer, pursuant to the general authority and provisions of this section, shall not imply approval by the commissioner of such insurer's financial condition or mode of operation.

Subd. 8. Evidence of insurance. (1) Upon placing a surplus line coverage, the surplus line agent shall promptly issue and deliver to the insured evidence of the insurance, consisting either of the policy as issued by the insurer, or, if such policy is not then available, a certificate of insurance or cover note signed or countersigned by the agent. Such certificate or cover note shall show the subject, coverage, conditions, and term of the insurance, the premium charged and taxes collected from the insured, and the name and address of the insurer. If the direct risk is assumed by more than one insurer, the certificate or cover note shall state the name and address and proportion of the entire direct risk assumed by each such insurer.

(2) If, after the issuance and delivery of any such certificate or cover note, there is any change as to the identity of the insurers, or the proportion of the direct risk assumed by the insurer as stated in the original certificate or cover note, or in any other material respect as to the insurance coverage evidenced by the certificate or cover note, the agent shall promptly issue and deliver to the insured a substitute certificate or cover note accurately showing the current status of the coverage and the insurers responsible thereunder.

(3) If a policy issued by the insurer is not available upon placement of the insurance and the agent has issued and delivered a certificate or cover note as hereinabove provided, upon request therefor by the insured, the agent shall, as soon as reasonably possible, procure from the insurer its policy evidencing such insurance and deliver such policy to the insured in replacement of the certificate or cover note theretofore issued.

(4) Any surplus line agent who knowingly or negligently issues or delivers a false certificate or cover note of insurance, or fails promptly to notify the insured or any material change with respect to such insurance by delivery to the insured of a substitute certificate or cover note as provided in clause (2) hereof, shall be guilty of a violation of this code, and, upon conviction, shall be subject to the penalties provided by this section, or to any greater applicable penalty otherwise provided by law.

Subd. 9. Liability of insurer as to losses and unearned premiums. As to a surplus line risk which has been assumed by an unauthorized insurer pursuant to this surplus line insurance law, and if the premium thereon has been received by the surplus line agent who placed such insurance, in all questions thereafter arising under the coverage as between the insurer and the insured, the insurer shall be deemed to have received the premium due to it for such coverage; and the insurer shall be liable to the insured as to losses covered by such insurance, and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not, in fact, the agent is indebted to the insurer with respect to such insurance or for any other cause. This provision shall not affect rights as between the insurer and the surplus line agent.

Subd. 10. Agent to keep records and make reports. (1) Each surplus line agent shall keep a separate record and account of all business transacted under his surplus line license, including a copy of each daily report, if any, and of each binder or cover note delivered by him. The records shall be available for examination by the commissioner at any reasonable time within the policy period, and shall be retained for at least three years following the termination of the coverage to which the records relate.

(2) Within 60 days following December 31 and June 30 of each year, the agent shall file with the commissioner a semi-annual statement which reports the following:

- (a) Name and address of each insured for whom surplus line insurance was procured;
- (b) Name and home office of each insurer providing such insurance;
- (c) Amount of each coverage, the premium rate and gross premiums charged;
- (d) Date and term of policy;

- (e) Amount of premium returned on each policy cancelled or not taken, and
- (f) Such additional information as the commissioner may reasonably require.

Subd. 11. Agent to remit premium tax semi-annually. Tax must be charged to insured. The premiums charged for surplus line insurance are subject to a premium receipts tax of two percent on all gross premiums, less any return premiums charged for such insurance. The surplus line agent shall charge the insured the amount of the tax at the time of delivery of the policy or other initial confirmation of insurance, in addition to the full amount of the gross premium charged by the insurer for the insurance; provided, however, that the tax on any unearned portion of the premium shall be returned to the policyholder by the surplus line agent. The surplus line agent is prohibited from absorbing such tax, or as an inducement for insurance, or for any other reason, rebating all or any part of such tax or all or any part of his commission.

Within 60 days following December 31 and June 30 of each year, the surplus line agent shall pay to the commissioner the amount of premium receipts taxes due upon business done during the semi-annual period ending December 31 and June 30 of each year.

If the surplus line policy covers risks or exposures only partially in this state, the tax payable shall be computed on the portion of the premium which is properly allocated to the risks or exposures located in this state.

Subd. 12. Penalty for failure to file statement or pay tax. Every surplus line agent who fails to make and file the semi-annual statement as required under subdivision 10, or to pay the taxes as required under this section, shall be liable to a penalty of \$25 for each seven days of delinquency, together with interest at the rate of six percent on any unpaid premium tax which is delinquent from the date of such delinquency. The tax and penalty may be recovered in an action instituted by the commissioner in the name of the state in any court of competent jurisdiction, the attorney general representing him. The surplus line agent's license shall also be subject to revocation as provided in subdivision 13.

Subd. 13. Revocation or suspension of agent's license. (1) The commissioner may revoke or suspend all licenses held by a surplus line agent:

- (a) If the agent fails to file his semi-annual statement or to remit the tax, as required by law;
- (b) If the agent fails to keep the records or to allow the commissioner to examine his records, as required by law;
- (c) If the agent fails to file or falsifies the affidavit required by subdivision 3; or
- (d) For any of the causes for which an insurance agent's license may be revoked or suspended.

(2) No agent whose licenses have been so revoked or suspended shall again be so licensed until all penalties and delinquent taxes owing by him have been paid.

Subd. 14. Service of process. No surplus line agent shall procure contracts from any unauthorized insurer unless: Such unauthorized insurer shall, prior to the time any risk is assumed, file with the commissioner a duly executed instrument whereby the unauthorized insurer shall appoint and constitute the commissioner the true and lawful attorney of such unauthorized insurer upon whom all lawful process in any action or legal proceeding against it may be served, and shall agree that any such lawful process against it, which may be served upon its said attorney as provided in this section, shall be of the same force and validity as if served upon the unauthorized insurer and that authority thereof shall continue in force irrevocably so long as any liability of the unauthorized insurer in this state shall remain outstanding. Such instrument shall designate therein, irrevocably but with full power of substitution, so long as any liability of the unauthorized insurer in this state shall remain outstanding, a resident of the state to whom a copy of such process shall be forwarded by the commissioner by fully prepaid registered or certified mail. Upon the mailing of such copy and receipt thereof, the service of such process shall be complete. The provisions of the unauthorized insurers process act, section 60A.21, shall, to the extent not inconsistent herewith, be applicable in connection with such service of process.

Subd. 15. Rules and regulations. The commissioner shall make or may approve and adopt reasonable rules and regulations for the effectuation of this section.

Subd. 16. Authorized insurance. Any authorized insurer, upon submission of an affidavit to the commissioner setting forth facts which show that it is competing for a specific risk with a named unauthorized insurer, may issue a policy without regard to rate and form requirements otherwise applicable; provided that the provisions of policies shall be at least as favorable to the insured as any standard policy described by the laws of this state. Insurance issued by authorized insurers under the provisions of this subdivision shall be considered for the purposes of regulation and taxation as authorized insurance rather than surplus line insurance.

Subd. 17. Exemptions. The provisions of this section, controlling the placing of insurance with unauthorized insurers, shall not apply to life insurance, health insurance, annuities, or reinsurance, nor to the following insurance when so placed by a licensed agent of this state

(1) Insurance on subjects located, resident, or to be performed wholly outside of this state.

(2) Insurance on the property or operations of aircraft or railroads engaged in transportation in interstate and foreign commerce.

(3) Insurance of vessels, crafts or hulls, cargoes, marine builders' risks, marine protection and indemnity, or other risks including strikes and war risks commonly insured under ocean or wet marine forms of policies.

[1967 c 395 art 1 s 20; 1969 c 818 s 1]

60A.21 UNAUTHORIZED INSURERS PROCESS ACT. Subdivision 1. **Purpose.** The purpose of the unauthorized insurers process act is to subject certain insurers to the jurisdiction of courts of this state in suits by or on behalf of insureds or beneficiaries under insurance contracts.

The legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued or delivered in this state by insurers while not authorized to do business in this state, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such state interest the legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing it exercises its power to protect its residents and to define for the purpose of this statute what constitutes doing business in this state and also exercises powers and privileges available to the state by virtue of Public Law 15, 79th Congress of the United States, Chapter 20, 1st Session, S.340, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

Subd. 2. Service of process upon unauthorized insurer. (1) Any of the following acts in this state effected by mail or otherwise by an unauthorized foreign or alien insurer: (a) the issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein; (b) the solicitation of applications for such contracts; (c) the collection of premiums, membership fees, assessments, or other considerations for such contracts; or (d) any other transaction of insurance business, is equivalent to and shall constitute an appointment by such insurer of the commissioner of insurance and his successor or successors in office to be its true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

(2) Such service of process shall be made by delivering to and leaving with the commissioner of insurance or some person in apparent charge of his office two copies thereof and the payment to him of a filing fee of \$3. The commissioner of insurance shall forthwith mail by registered mail one of the copies of such process to the defendant at its last known principal place of business and shall keep a record of all process so served upon him. Such service of process is sufficient provided notice of such service and a copy of the process are sent within ten days thereafter by registered mail by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business and the defendant's receipt, or receipt issued by the postoffice with which the letter is registered showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such

action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

(3) Service of process in any such action, suit, or proceeding shall in addition to the manner provided in clause (2) of this subdivision be valid if served upon any person within this state who, in this state on behalf of such insurer, is: (a) soliciting insurance, or (b) making, issuing, or delivering any contract of insurance, or (c) collecting or receiving any premium, membership fee, assessment, or other consideration for insurance; and if a copy of such process is sent within ten days thereafter by registered mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant and the defendant's receipt, or the receipt issued by the postoffice with which the letter is registered showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

(4) No plaintiff or complainant shall be entitled to a judgment by default under this subdivision until the expiration of 30 days from the date of the filing of the affidavit of compliance.

(5) Nothing in this subdivision contained shall limit or abridge the right to serve any process, notice, or demand upon any insurer in any other manner now or hereafter permitted by law.

(6) The provisions of this section shall not apply to surplus line insurance lawfully effectuated under Minnesota law, or to reinsurance, nor to any action or proceeding against an unauthorized insurer arising out of:

(a) Wet marine and transportation insurance;

(b) Insurance on or with respect to subjects located, resident, or to be performed wholly outside this state, or on or with respect to vehicles or aircraft owned and principally garaged outside this state;

(c) Insurance on property or operations of railroads engaged in interstate commerce; or

(d) Insurance on aircraft or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of such aircraft, where the policy or contract contains a provision designating the commissioner as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such policy, or where the insurer enters a general appearance in any such action.

Subd. 3. Defense of action by unauthorized insurer. (1) Before any unauthorized foreign or alien insurer shall file or cause to be filed any pleading in any action, suit, or proceeding instituted against it such unauthorized insurer shall: (a) Deposit with the clerk of the court in which such action, suit, or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties to be approved by the court in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action; or (b) procure a certificate of authority to transact the business of insurance in this state.

(2) The court in any action, suit, or proceeding in which service is made in the manner provided in clauses (2) or (3) of subdivision 2 hereof, may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of clause (1) of this subdivision and to defend such action.

(3) Nothing in clause (1) of this subdivision is to be construed to prevent an unauthorized foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in clauses (2) and (3) of subdivision 2 hereof on the ground either (a) that such unauthorized insurer has not done any of the acts enumerated in clause (1) of subdivision 2 hereof, or (b) that the person on whom service was made pursuant to clause (3) of subdivision 2 hereof, was not doing any of the acts therein enumerated.

Subd. 4. Attorney fees and judgment. In any action hereunder against an unauthorized foreign or alien insurer upon a contract of insurance issued or delivered in this state to a resident thereof or to a corporation authorized to do business therein, if the insurer has failed for 30 days after demand prior to the commencement of the action to make payment in accordance with the terms of the

contract and it appears to the court that such refusal was vexatious and without reasonable cause, the court may allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action. Failure of an insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

Subd. 5. Constitutionality. If any provision of this section or the application thereof to any person or circumstances is held invalid such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this section are declared to be severable.

Subd. 6. Citation. This section may be cited as the unauthorized insurers process act.

[1967 c 395 art 1 s 21]

60A.22 SPECIAL PROVISIONS AS TO STOCK COMPANIES; STOCKHOLDERS, OFFICERS, DIRECTORS AND INVESTORS. Subdivision 1. **Shareholders' rights.** (1) If an insurance corporation has given notice to shareholders of a proposal to amend the articles of incorporation, which proposed amendment would substantially change the corporate purposes or would extend the duration of the corporation, a shareholder may, at any time prior to the date of the meeting at which such proposed amendment is to be voted upon, file a written objection to such amendment in the office of the secretary or president of the corporation and demand payment for his shares; provided, that such demand shall be of no force and effect if such shareholder votes in favor of the amendment, or at any time consents thereto in writing, or if the proposed amendment be not in fact effected.

(2) If, after such a demand by a shareholder, the corporation and the shareholder cannot agree upon the fair cash value of the shares at the time such amendment was authorized, such value shall be determined by three disinterested appraisers, one of whom shall be named by the shareholder, another by the corporation, and the third by the two thus chosen. The determination of a majority of the appraisers in good faith made shall be final, and if the amount so determined is not paid by the corporation within 30 days after it is made, such amount may be recovered in an action by the shareholder against the corporation. The corporation shall not be required to make payment of such amount except upon transfer to it of the shares for which such payment was demanded and upon surrender of the certificate or certificates evidencing the same.

(3) A shareholder shall not be entitled to payment for his shares under the provisions of this subdivision unless the value of the corporate assets which would remain after such payment would be at least equal to the aggregate amount of its debts and liabilities exclusive of stated capital.

Subd. 2. Transactions of principal stockholders, directors, and officers in equity securities. (1) Every person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner of insurance on or before January 31, 1966, or within ten days after he becomes such beneficial owner, director, or officer, a statement, in such form as the commissioner of insurance may prescribe, of the amount of all equity securities of such company of which he is the beneficial owner, and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the commissioner of insurance a statement, in such form as the commissioner of insurance may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as may have occurred during such calendar month.

(2) For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director, or officer by reason of his relationship to such company, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such company within any period of less than six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director, or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the com-

pany in the name and in behalf of the company if the company shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This clause shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the commissioner of insurance by rules and regulations may exempt as not comprehended within the purpose of this clause.

(3) It shall be unlawful for any such beneficial owner, director, or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or his principal (a) does not own the security sold, or (b) if owning the security, does not deliver it against such sale within 20 days thereafter, or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this clause if he proves that notwithstanding the exercise of good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

(4) The provisions of clause (2) of this subdivision shall not apply to any purchase and sale, or sale and purchase, and the provisions of clause (3) of this subdivision shall not apply to any sale, of any equity security of a domestic stock insurance company not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary market, otherwise than on an exchange as defined in the federal Securities Exchange Act of 1934, for such security. The commissioner of insurance may, by such rules and regulations as he deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

(5) The provisions of this subdivision shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the commissioner of insurance may adopt in order to carry out the purposes of this subdivision.

Subd. 3. Regulation of proxies, consents and authorizations. (1) It shall be unlawful for any person, in contravention of such rules and regulations as the commissioner of insurance may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any equity security of a domestic stock insurance company.

(2) Unless proxies, consents, or authorizations in respect of an equity security of a domestic stock insurance company are solicited by or on behalf of the management of such company from the holders of record of such security in accordance with the rules and regulations prescribed under clause (1) of this subdivision, prior to any annual or other meeting of the holders of such security, such company shall, in accordance with such rules and regulations as the commissioner of insurance may prescribe as necessary or appropriate in the public interest or for the protection of investors, if required thereby, file with the commissioner of insurance and transmit to all holders of record of such security information substantially equivalent to the information which would be required to be transmitted if a solicitation were made.

Subd. 4. Securities excepted. The provisions of subdivisions 2 and 3 hereof shall not apply to equity securities of a domestic stock insurance company if (a) any equity security of such company shall be registered, or shall be required to be registered, pursuant to section 12 of the federal Securities Exchange Act of 1934, or if (b) such company shall 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 the provisions of subdivisions 2 and 3 hereof would apply except for the provisions of this clause (b).

Subd. 5. Rules and regulations. The commissioner of insurance shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in him by subdivisions 2 and 3 hereof, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provision of subdivisions 2 and 3 hereof imposing any liability shall apply to any act done or omitted in good faith in con-

formity with any rule or regulation of the commissioner of insurance, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

Subd. 6. Definitions. (1) The term "equity security" when used in this section means any stock or similar 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; or any other security which the commissioner of insurance shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security.

(2) The term "domestic stock insurance company" when used in this section includes a domestic stock and mutual insurance company as defined in sections 61A.33 to 61A.38.

[1967 c 395 art 1 s 22]

60A.23 MISCELLANEOUS. Subdivision 1. **Liability of directors and officers generally.** If a company be at any time under liability for losses exceeding its net assets, and the president and directors, or any of them, knowing it, directly or indirectly, issue or consent to the issue of further insurance, each shall be personally liable for any loss under this insurance; and if any of them insures or allows to be insured on a single risk a larger sum than is authorized by law, he shall be personally liable for any loss thereon above the amount which might lawfully be insured.

Subd. 2. Liability of directors and officers of mutual company. No director or other officer of any mutual company shall, officially or privately, guarantee a policyholder thereof against an assessment to which he would otherwise be liable. When the directors of any mutual company fail for 30 days after entry of any judgment, or for six months after the accruing of any other indebtedness against it, to levy and deliver for collection any assessment required by law for payment thereof, or to apply the proceeds thereof in either case, each shall be personally liable for the amount thereof, and for all debts and claims then outstanding or which may accrue until the assessment shall be levied and put in process of collection. When the treasurer unreasonably fails to collect and properly apply the proceeds of any such assessment he shall be personally liable, not exceeding the total assessment, to any person entitled thereto, and shall be repaid only out of funds thereafter collected thereon.

Subd. 3. Conflict of interest and compensation in mutual fire company. No officer or other person employed to determine the character of a risk, and decide the question of its acceptance by any mutual fire company other than a town or farmers company, shall receive a commission or other payment therefrom, but his compensation shall be by fixed salary and such share, if any, of the net profits as the directors may determine; and such officer or person shall not be an employee of any other officer or agent of the company, nor interested in his business.

Subd. 4. Stock dividends; limitations. No domestic stock company shall declare a dividend either in cash or stock, except from its actual net surplus computed as required by law in its annual statement; nor shall any such company which has ceased to do new business divide any portion of its assets, except surplus, until it shall have performed or canceled its policy obligations. It may declare and pay, annually or semiannually, from its surplus, cash dividends of not more than ten percent of its capital stock and surplus in any year and, if the dividends in any one year are less than ten percent, the difference may be made up in any subsequent year or years from surplus accumulations. It may pay such dividend as the directors deem prudent out of any surplus remaining after charging, in addition to all liabilities except unearned premiums, an amount equal to the whole amount of premiums on unexpired risks and deducting from the assets all securities and accounts receivable on which no part of the principal or interest has been paid within the preceding year, or for which foreclosure or suit has been commenced, or upon which judgment obtained has remained more than two years unsatisfied and on which interest has not been paid, and also deducting all liens due and unpaid on any of its property.

Subd. 5. Provisions as to fidelity and surety companies. (1) **Requirements and acceptability.** No company for guaranteeing the fidelity of persons in fiduciary po-

sitions, public or private, or for acting as surety, shall transact any business in this state until it shall have satisfied the commissioner that it has complied with all the provisions of law and obtained his certificate to that effect. Thereupon it shall be authorized to execute as sole or joint surety any bond, undertaking, or recognizance which, by any municipal or other law, or by the rules or regulations of any municipal or other board, body, organization, or officer, is required or permitted to be made, given, tendered, or filed for the security or protection of any person, corporation, or municipality, or any department thereof, or of any other organization, conditioned for the doing or omitting of anything in such bond or other instrument specified or provided; and any and all courts, judges, officers, and heads of departments, boards, and municipalities required or permitted to accept or approve of the sufficiency of any such bond or instrument may in their discretion accept the same when executed, or the conditions thereof guaranteed solely or jointly by any such company, and the same shall be in all respects full compliance with every law or other provisions for the execution or guaranty by one surety or by two or more sureties, or that sureties shall be residents or householders, or freeholders, or all or either.

(2) **Countersignature not required.** The countersignature of a licensed resident agent shall not be required of any bid bond issued in connection with any public or private contract when such bid bond is issued by an insurer duly authorized to do business in this state.

(3) **Limits of risk.** No fidelity or surety company shall insure or reinsure in a single risk, less any portion thereof reinsured, a larger sum than one tenth of its net assets.

Subd. 6. **Company's principal place of business to be designated.** When a company establishes any agency in a place other than that of its principal place of business, all signs, cards, pamphlets, or other printed matter issued shall designate such principal place.

Subd. 7. **Licenses required for employers making deductions from wages for certain purposes.** (1) **Requirements.** No employer shall make deductions from the wages of his employees for the purpose of furnishing them with life insurance, funeral benefits, medical or hospital care, accident, sickness or old age insurance or benefits, unless he first receives from the commissioner of insurance a license for the benefit plan he operates or proposes to operate. Such license shall be granted only when the commissioner is satisfied that the benefits given are commensurate with the charges made and that the charges will keep the fund solvent. All such licenses shall be for the period of one year. The commissioner may require a statement of the operation of the fund, on a form to be prescribed by him, before granting a renewal. The fee for any such license is \$1 and for filing the annual statement \$1. Before granting a license the commissioner of insurance shall submit the proposed plan to the chairman of the workmen's compensation commission in order that he may determine whether the benefits are in conjunction with the benefits under the workmen's compensation act.

(2) **Exceptions.** The above requirements shall not apply to deductions made from the employees' wages for group insurance issued by insurers authorized to transact business in this state nor to railroad companies engaged in interstate commerce.

(3) **Penalty.** Any person, firm, corporation, or association that makes deductions from the wages of his, their, or its employees in violation of clause (1) shall be guilty of a misdemeanor.

[1967 c 395 art 1 s 23; Ex1967 c 1 s 6; 1969 c 497 s 1]

60A.24 EXEMPTIONS FROM INSURANCE LAWS OF THIS STATE. The following are exempt from all insurance laws of the state: All organizations listed in section 64A.45 of the laws relating to fraternal beneficiary associations.

[1967 c 395 art 1 s 24]

60A.25 INSOLVENT COMPANIES, NOTIFICATION OF POLICYHOLDERS. Whenever any foreign or domestic insurance company authorized to transact the business of insurance in Minnesota is adjudicated insolvent, or whenever its policies are declared null and void by court order, the commissioner of insurance shall ascertain the names and last known addresses of all Minnesota policyholders of said company, and shall notify all Minnesota policyholders within 30 days of such adjudication or court order. In the case of foreign insurers authorized to do business in this state, the commissioner of insurance may elect to notify all of the company's licensed agents in Minnesota with a directive that the agents notify all

insureds of the company's insolvency or that its policies have been declared null and void.

[1967 c 368 s 1; 1971 c 527 s 1]

60A.26 SUSPENSION OF INSURERS, NOTICE TO OTHER STATES. The commissioner of insurance shall notify the insurance departments of all other states whenever, under any law then in effect, he suspends the right of a foreign or domestic insurer to transact business in this state.

[1967 c 369 s 1]

60A.27 DISCIPLINE OF INSURER BY ANOTHER STATE; NOTICE TO COMMISSIONER. Subdivision 1. An insurance company licensed to transact business in this state is hereby required to notify the commissioner of insurance within 30 days of the happening of any one or more of the following:

(1) the suspension or revocation of its right to transact business in another state;

(2) the receipt by the insurance company of an order to show why its license should not be suspended or revoked; or

(3) the imposition of a penalty by any other state for any violation of the insurance laws of such other state.

Subd. 2. Any insurance company which fails to notify the commissioner of insurance within 30 days of the happening of any of the foregoing shall be subject to a penalty of not more than \$500, or suspension, or both.

[1967 c 448 s 1, 2]

60A.28 DOCUMENTS FILED WITH COMMISSIONER, VERIFICATION. The commissioner of insurance may require that any document required by law to be filed with him, be accompanied by a sworn verification of its contents by a responsible officer of the corporation filing it. The commissioner shall prescribe the form of the verification by rule.

[1967 c 457 s 1]