

CHAPTER 79

COMPENSATION INSURANCE

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79.01 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections 79.01 to 79.23, shall have the meanings ascribed to them.

Subd. 2. **Insurer.** The word "insurer" means any insurance carrier authorized by license issued by the commissioner of insurance to transact the business of workers' compensation insurance in this state.

Subd. 3. **Insurance.** The word "insurance" means workers' compensation insurance and insurance covering any part of the liability of an employer exempted from insuring his liability for compensation, as provided in section 176.181.

Subd. 4. [Repealed, 1969 c 9 s 10]

Subd. 5. **Commissioner.** The word "commissioner" means the commissioner of insurance.

[1921 c 85 s 1; 1931 c 353 s 1; 1957 c 508 s 1; 1969 c 9 s 8; 1973 c 577 s 1,2; 1975 c 359 s 23] (3612)

79.02 [Repealed, 1969 c 9 s 10]

79.021 [Repealed, 1969 c 9 s 10]

79.03 [Repealed, 1969 c 9 s 10]

79.04 [Repealed, 1969 c 9 s 10]

79.05 HEARINGS; SUBPOENAS; WITNESSES. In all hearings before or investigations conducted by the commissioner, any member thereof shall have power to issue subpoenas requiring the attendance of witnesses and the production of books, records, and papers and administer oaths. Any person who shall testify falsely in any material matter under consideration by the commissioner shall be guilty of and punished for perjury. Subpoenas or other process issued by the commissioner shall be served as a summons in the district court. In case any witness shall fail to obey summons to appear before the commissioner or refuse to testify or answer any material question, or to produce records, books, papers, or documents when required so to do, such failure or refusal shall be reported to the attorney general, who shall thereupon institute proceedings in the proper district court to compel obedience to any summons or order of the commissioner, or to punish witnesses for any such neglect or refusal.

[1921 c 85 s 5; 1969 c 9 s 9; 1973 c 577 s 2] (3616)

79.06 COMMISSIONER TO APPOINT REPRESENTATIVE. The commissioner shall have power to appoint and authorize any person chosen by it to hold hearings and make investigations and examinations with reference to any subject over which the commissioner has or may have jurisdiction. The person so appointed shall have all the powers in relation to the hearing, investigation, or examination that the commissioner would have, if itself acting, but shall report in writing the result of the hearing, examination, or investigation and any testimony taken by him to the commissioner.

[1921 c 85 s 6; 1969 c 9 s 9; 1973 c 577 s 2] (3617)

79.07 INSURANCE RATES. To provide for the solvency of insurers writing workers' compensation insurance in this state and to secure reasonable rates, the commissioner shall approve a minimum, adequate, fair, and reasonable rate, including the expense of a reasonable charge which the commissioner may approve for the services of an agent of record whether or not an employee or agent of the insurer, for the service of rejected risks as set forth in sections 79.24 to 79.27, for each classification under which such business is written. In approving these rates, the commissioner shall make findings in support thereof and make use of the experience which from time to time may be available and of such other helpful information as may be obtainable. Approval of rates shall be upon hearings under and pursuant to the administrative procedures act, chapter 15. For the purpose of uniformity and equality, the commissioner, after consultation with insurers, shall approve a system of merit and experience rating for use in writing such business in this state. No other system of merit or experience rating shall be used in this state. Every insurer referred to in section 79.20 who issues participating policies shall file with the commissioner a true copy or summary as the commissioner shall direct of its participating dividend rates as to policy holders. The commissioner shall study such rates and make recommendations to the legislature concerning possible basis for discrimination. Such filing shall be made at the same time as the filing required in section 79.20.

[1921 c 85 s 7; 1947 c 98 s 1; 1953 c 615 s 2; 1969 c 9 s 9; 1969 c 949 s 1; 1973 c 577 s 2; 1975 c 359 s 23; 1977 c 342 s 25; 1978 c 797 s 1] (3618)

79.08 COMMISSIONER MAY REQUIRE SURVEY. The commissioner may at any time require a survey and report, by the bureau herein provided for, of any risk regarding which complaint may have been made. Its approval of any rate or classification may be withdrawn by the commissioner upon ten days notice to the parties interested.

[1921 c 85 s 8; 1969 c 9 s 9; 1973 c 577 s 2] (3619)

79.09 CLASSIFICATION OF WORKERS' COMPENSATION INSURANCE. No classification for compensation insurance purposes shall be effective until approved as correct by the commissioner. No rule or regulation with reference to compensation risks filed by any insurer, or by the bureau herein provided, shall be effective until approved by the commissioner. No kind of insurance covering any part of the liability of an employer exempted from insuring his liability for compensation, as provided in section 176.181, shall be effective in this state unless approved by the commissioner. If it appears at any time that reasonable doubt on the part of the commissioner as to the proper classification or rate for any risk exists, such risk may be bound for insurance subject to rate and classification to be established therefor.

[1921 c 85 s 9; 1931 c 392 s 1; 1957 c 508 s 2; 1969 c 9 s 9; 1973 c 577 s 2; 1975 c 359 s 23] (3620)

79.095 APPOINTMENT OF ACTUARY. The commissioner shall employ the services of a casualty actuary experienced in worker's compensation whose duties shall include but not be limited to investigation of complaints by insured parties relative to rates, rate classifications, or discriminatory practices of an insurer.

[1977 c 342 s 24]

79.10 REVIEW OF ACTS OF INSURERS; CERTIORARI. The commissioner, upon its own motion or upon the written complaint of any person having a direct interest, may review the acts of any insurer, bureau, or agent subject to the provisions of sections 79.01 to 79.23, and make findings and orders requiring compliance with the provisions thereof. Not less than ten days notice of this review before the commissioner shall be given to the parties interested in its findings or orders shall be made after a hearing before it and is subject to a review by a writ of certiorari brought in the supreme court. The operation of the commissioner's order is suspended during such review, but in the event of final determination against an insurer any overcharge made during the pendency of the proceedings shall be refunded to the person entitled thereto. All written complaints under this section shall be verified and may be upon information and belief of the person complaining. A copy of the complaint shall be served upon the insurer, bureau, or person against whom the complaint is directed and each party in interest is entitled to at least ten days notice of any hearing thereon.

[1921 c 85 s 10; 1953 c 615 s 3; 1969 c 9 s 9; 1973 c 577 s 2] (3621)

79.11 INSURERS SHALL BE MEMBERS OF BUREAU. Every insurer transacting the business of workers' compensation insurance in this state shall be a member of the bureau organized under sections 79.01 to 79.23, to be maintained in this state for the following purposes:

(1) To separate the industries of this state that are subject to workers' compensation insurance into proper classes for compensation insurance purposes; to make inspections of compensation risks and to apply thereto the merit and experience rating system approved for use in this state; to establish charges and credits under the system and make reports showing all facts affecting these risks as the subject of compensation insurance and for approving policies of compensation insurance as being written in conformity with classifications and rates previously promulgated by the bureau and approved by the commissioner; and

(2) To assist the commissioner and insurers in approving rates, determining hazards and other material facts in connection with compensation risks, and to assist in promoting safety in the industries.

[1921 c 85 s 11; 1947 c 98 s 2; 1969 c 9 s 9; 1973 c 577 s 2; 1975 c 359 s 23] (3622)

79.12 ORGANIZATION OF BUREAU. The bureau shall adopt articles of association and bylaws for its government and for the government of its members. These articles and bylaws and all amendments thereto shall be filed with and approved by the commissioner and shall not be effective until so filed and approved. The bureau shall admit to membership any insurer authorized to transact workers' compensation insurance in this state. The charges and service of the bureau shall be fixed in the articles or bylaws and shall be equitable and non-discriminatory as between members.

[1921 c 85 s 12; 1969 c 9 s 9; 1973 c 577 s 2; 1975 c 359 s 23] (3623)

79.13 EXPENSE, HOW PAID. Each member of the bureau shall pay an equitable and non-discriminatory share of the cost of operating the bureau. If the members of the bureau cannot agree upon an apportionment of cost, any member may in writing petition the commissioner to establish a basis for apportioning the cost. If any member is aggrieved by an apportionment made by the bureau, it may in writing petition the commissioner for a review of the apportionment. The commissioner shall, upon not less than five days notice to each member of the bureau, hold a hearing upon any such petition at which all members are entitled to be present and be heard. The commissioner shall determine the matter and mail a copy of his decision to each member of the bureau. The decision of the commissioner shall be final and binding upon all members of the bureau.

[1921 c 85 s 13; 1969 c 9 s 9; 1973 c 577 s 2] (3624)

79.14 REPRESENTATION. Each class of insurers, stock companies, mutual companies, and interinsurers, which are members of the bureau shall be represented in the bureau management and on committees, as provided in the bylaws, but the non-stock and stock companies shall have equal representation on the governing or managing committee and on the rating committee of the bureau. One-half of the members of each committee shall be chosen by the non-stock companies and one-half by the stock companies. Each member company shall be entitled to one vote. In case of a tie vote upon any committee, the commissioner shall cast the deciding vote.

[1921 c 85 s 14; 1947 c 210 s 1; 1969 c 9 s 9; 1973 c 577 s 2] (3625)

79.15 LICENSE; FEE. The bureau shall procure annually from the commissioner a license to carry on its business. The license year for the bureau shall be from March first to the last day of February succeeding. The bureau shall pay to the state through the commissioner an annual license fee of \$100 to be paid at the time of filing application for license. The commissioner shall prescribe blanks and make needed regulations governing the licensing of the bureau.

[1921 c 85 s 15; 1947 c 52 s 1; 1969 c 9 s 9; 1973 c 577 s 2] (3626)

79.16 ANNUAL STATEMENT. The bureau shall annually on or before March first file with the commissioner a statement covering its activities for the year ending on the preceding thirty-first day of December. This report shall cover its financial transactions and other matters connected with its operation as required by the commissioner. The commissioner shall prescribe the form of the report. The bureau shall be subject to supervision and examination by the commissioner or any examiner au-

thorized by him. Examinations may be made as often as deemed expedient. The expense of an examination shall be paid by the bureau.

[1921 c 85 s 16; 1969 c 9 s 9; 1973 c 577 s 2] (3627)

79.17 BUREAU SHALL MAKE CLASSIFICATION. The bureau shall, on behalf of its members, assign each compensation risk and subdivision thereof in this state to its proper classification. The determination as to the proper classification by the bureau shall be subject to the approval of the commissioner as herein provided. The bureau shall, on behalf of all members thereof, inspect and make a written survey of each risk to which the system of merit rating approved for use in this state is applicable. It shall, on behalf of all the members thereof, file with the commissioner its classification of risks and keep on file at the office of the bureau the written surveys of all risks inspected by it, which survey shall show the location and description of all items producing charges and credits, if any, and such other facts as are material in the writing of insurance thereon. It shall file any subsequent proposed classification or later survey and all rules and regulations which do or may affect the writing of these risks. The bureau classification shall be binding upon all insurers. The commissioner and the bureau and its representatives shall give all information as to classifications, rates, surveys, and other facts collected and intended for the common use of insurers subject to sections 79.01 to 79.23 to all these insurers at the same time. A copy of the complete survey, with the approved classification and rates based thereon and the effective date thereof, shall be furnished to the insurer of record as soon as approved. The approved classification and rates upon a specific risk shall be furnished upon request to any other insurer upon the payment of a reasonable charge for the service. Every insurer shall promptly file with the bureau a copy of each payroll audit, which shall be checked by the bureau for correctness of classification and rate. The commissioner may require the bureau to file with it any such copy and may verify any payroll audit by a reaudit of the books of the employer or in such other manner as may to it appear most expedient. Upon written complaint stating facts sufficient to warrant action by it, the commissioner shall verify any payroll audit reported to it.

[1921 c 85 s 17; 1947 c 98 s 3; 1969 c 9 s 9; 1973 c 577 s 2] (3628)

79.18 RECORD; SHALL FURNISH INFORMATION. The bureau shall keep a careful record of its proceedings. It shall furnish, upon his demand, to any employer upon whose workers' compensation risk a survey has been made, full information as to the survey, including the method of the computation and a detailed description and location of all items producing charges or credits. The bureau shall provide such means as may be approved by the commissioner whereby any member or any employer whose risk has been inspected by it may be heard, either in person or by a representative, before the governing or rating committee or other proper representatives with reference to any matter affecting the risk. Any insurer or employer may appeal from a decision of the bureau to the commissioner. The bureau shall make rules governing appeals, which rules shall be filed with and approved by the commissioner. The bureau shall file with the commissioner when it may call therefor such information as it may have concerning any matter connected with its activities.

[1921 c 85 s 18; 1969 c 9 s 9; 1973 c 577 s 2; 1975 c 359 s 23] (3629)

79.19 INSURERS SHALL NOT DISCRIMINATE. No insurer shall make or charge any rate for workers' compensation insurance in this state which discriminates unfairly between risks or classes, or which discriminates unfairly between risks in the application of like charges and credits in the plan of merit or experience rating in use; and no insurer shall discriminate by granting to any employer insurance against other hazards at less than its regular rates for such insurance or otherwise.

[1921 c 85 s 19; 1947 c 98 s 4; 1975 c 359 s 23] (3630)

79.20 RATES SHALL BE FILED. Every insurer writing workers' compensation insurance in this state shall, except as otherwise ordered by the commissioner, file with the commissioner its rates for this insurance and all additions thereto or changes therein. All rates so filed shall comply with the requirements of law and shall not be effective or used until approved as to such compliance by the commissioner. A rate which is filed and approved shall not be changed until the substituted rate has been filed for at least 15 days and has been approved by the commissioner.

[1921 c 85 s 20; 1969 c 9 s 9; 1973 c 577 s 2; 1975 c 359 s 23] (3631)

79.21 RATES TO BE UNIFORM; EXCEPTIONS. No insurer shall write insurance at a rate other than that made and put into force by the bureau and approved as adequate and reasonable by the commissioner. The bureau may reduce or increase a rate by the application to individual risks of the system of merit or experience rating which has been approved by the commissioner. This reduction or increase shall be set forth in the policy or by indorsement thereon.

[1921 c 85 s 21; 1947 c 98 s 5; 1969 c 9 s 9; 1973 c 577 s 2] (3632)

79.22 DUTIES OF COMMISSIONER. The commissioner of insurance shall require these insurers, or their agents, to file with him on such blanks as he may prescribe such reports as in the judgment of the commissioner, may be necessary for the purposes of sections 79.01 to 79.23; and this information when so filed shall be available for the use of the commissioner. No information regarding the writings of any insurer shall be made public by the commissioner or the bureau, or any of its employees, except as required by law.

[1921 c 85 s 22; 1969 c 9 s 9; 1973 c 577 s 2] (3633)

79.23 VIOLATIONS; PENALTIES. Any insurer, rating bureau, agent, or other representative or employee of any insurer or rating bureau failing to comply with, or which is guilty of a violation of, any of the provisions of sections 79.01 to 79.23, or of any order or ruling of the commissioner of insurance made thereunder, shall be punished by a fine of not less than \$50 nor more than \$500. In addition thereto, the license of any insurer, agent, or broker guilty of such violation may be revoked or suspended by the commissioner of insurance.

[1921 c 85 s 23; 1969 c 9 s 9; 1973 c 577 s 2] (3634)

79.24 INSURERS REQUIRED TO TAKE CERTAIN RISKS; REFUSAL TO WRITE. It shall be the duty of companies carrying workers' compensation insurance and being members of the rating bureau of Minnesota, as defined in the statutes of this state, to insure and accept any workers' compensation insurance risk which shall have been tendered to and rejected by any member of the bureau, in the manner herein provided. The member of the bureau, or any agent of the member, refusing to write this insurance when the applicant has made written application for insurance, shall forthwith furnish the applicant for insurance a written statement of the refusal, and the member of the bureau, or any agent of the member, to whom written application has been made, shall forthwith file a copy of the refusal with the rating bureau. The commissioner of insurance may revoke the license of the member or agent for refusal or failure to give the refusal in writing. The commissioner of insurance shall notify all members of the bureau now licensed to write insurance and such companies as may thereafter become members of the bureau of the provisions of this section.

[1929 c 237 s 1; 1937 c 175 s 1; 1969 c 9 s 9; 1975 c 359 s 23] (3634-1)

79.25 BUREAU TO FIX PREMIUM RATES. When any such rejected risk is called to its attention and it appearing that the risk is in good faith entitled to coverage the bureau shall fix the initial premium therefor and may fix an additional charge to compensate the agent of record for his services and, upon its payment, the bureau shall designate a member, whose duty it shall be to issue a policy containing the usual and customary provisions found in such policies therefor, but for which undertaking all members of the bureau shall be reinsurers as among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by that member bears to the total compensation insurance written in this state during the preceding year by all the members of the bureau.

[1929 c 237 s 2; 1969 c 949 s 2] (3634-2)

79.26 BUREAU TO ADOPT RULES. The bureau shall make and adopt such rules as may be necessary to carry this law into effect, subject to an appeal to the commissioner as in all other cases.

[1929 c 237 s 3; 1969 c 9 s 9; 1973 c 577 s 2] (3634-3)

79.27 APPLICATION. As a prerequisite to the transaction of workers' compensation insurance in this state every insurance carrier shall file with the commissioner of insurance written authority permitting the bureau to act in its behalf, as provided in sections 79.24 to 79.27.

[1929 c 237 s 4; 1969 c 9 s 9; 1975 c 359 s 23] (3634-4)

79.28 LIABILITY OF INSURERS. Carriers of workers' compensation insurance shall be liable to the extent and in the manner hereafter set forth for the payment of unpaid awards of workers' compensation arising out of injuries sustained from and after the passage of Laws 1935, Chapter 103, while the employer was insured by a carrier and the carrier becomes insolvent. Upon the determination by the commissioner of insurance, or other competent authority of the state where the carrier is incorporated or organized, that any carrier of workers' compensation insurance, which is or has been engaged in such business in this state, is insolvent, the workers' compensation division shall thereupon and thereafter from time to time certify to the rating bureau of Minnesota, as defined in sections 79.11 and 79.12, the unpaid awards of workers' compensation for such injuries outstanding against employers insured by this carrier and as to which it is liable. The rating bureau shall thereupon make payment of the unpaid awards so far as funds are available at the times and in the amounts required by the awards, unless payment in a lesser number of instalments is authorized by the commissioner of the department of labor and industry; and, if sufficient funds to make all of the payments due and payable are not available in any one year, the available funds shall be prorated to these claims in proportion to the amounts of the awards due and payable in that year and the unpaid portion thereof shall be paid as soon as funds are available.

[1935 c 103 s 1; Ex1967 c 1 s 6; 1969 c 9 s 9; 1973 c 388 s 1; 1975 c 359 s 1,23] (3634-6)

79.29 ASSESSMENTS. If necessary to secure funds for the payment of these awards, it shall be the duty of the rating bureau, upon such certification, to levy assessments on all carriers writing workers' compensation insurance in the proportion that the workers' compensation insurance written by each such carrier in the state during the preceding calendar year bears to the total of such insurance written in the state during that year. The assessments may be made at any time by the bureau in its discretion for such amount as it estimates will be necessary to meet both past and future awards which will probably become due and payable during the year in which the assessment is levied. Each company assessed shall have at least 30 days notice by mail as to the date the assessment is due and payable. In no event shall the total sum assessed in any calendar year exceed one percent of the premiums for workers' compensation insurance written in this state during the preceding calendar year. Any assessment paid under the provisions of sections 79.28 to 79.32 shall be included in determining the loss ratio of such carriers.

[1935 c 103 s 2; 1975 c 359 s 23] (3634-7)

79.30 SUBROGATION UPON INSOLVENCY. The rating bureau shall be subrogated to the rights of the employee, or his dependents, as against the employer's worker's compensation insurance carrier, to the extent of payments made by the rating bureau under the provisions of sections 79.28 to 79.32 and shall take such legal proceedings as it shall deem necessary or advisable to recover thereon, and all sums so recovered shall constitute an additional fund for payment of these awards until the same are paid in full. The rating bureau shall not be subrogated to the rights of the employee, or his dependents, if any, as against the employer. In such a proceeding against an insolvent carrier, the rating bureau shall have first priority in payment from the assets of the insolvent insurer.

[1935 c 103 s 3; 1977 c 342 s 26] (3634-8)

79.31 RATING BUREAU TO BE PARTY IN INTEREST. After insolvency of any such carrier the rating bureau shall be a party in interest in all workers' compensation proceedings involving risk insured by this carrier with the same rights to receive notice, defend, appeal, and review as a solvent carrier would have.

[1935 c 103 s 4; 1975 c 359 s 23] (3634-9)

79.32 DUTIES OF RATING BUREAU. The bureau may sue for and recover any assessment not paid when due and any member thereof which shall fail to pay an assessment, as provided in sections 79.28 to 79.32, shall be liable to forfeiture and revocation of its license upon complaint made to the commissioner of insurance by the bureau.

[1935 c 103 s 5; 1969 c 9 s 9] (3634-10)