

## CHAPTER 60A

## DEPARTMENT OF COMMERCE; INSURANCE

60A.02 Definitions.  
 60A.03 Commissioner of commerce.  
 60A.08 Contracts of insurance.  
 60A.10 Deposits.  
 60A.11 Investments for domestic companies.  
 60A.13 Annual statement, inquiries, abstracts, publication thereof.

60A.131 Other business and insurance interests, disclosure.  
 60A.15 Taxation of insurance companies.  
 60A.17 Agents; solicitors.  
 60A.1701 Continuing insurance education.  
 60A.199 Examinations.

**60A.02 DEFINITIONS.**

*[For text of subds 1 to 6, see M.S.1984]*

Subd. 7. **Insurance agent or insurance agency.** An "insurance agent" or "insurance agency" is a person acting under express authority from, and an appointment pursuant to section 60A.17 by, 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. The term "person" includes a natural person, a partnership, a corporation, or other entity, including an insurance agency.

*[For text of subds 9 to 18, see M.S.1984]*

**History:** *1Sp1985 c 10 s 49*

**60A.03 COMMISSIONER OF COMMERCE.**

*[For text of subd 1, see M.S.1984]*

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 commerce, except that applications for registrations of securities and brokers' licenses under sections 80A.01 to 80A.31, and all matters pertaining to such registrations and licenses, application for the organization and establishment of new financial institutions under sections 46.041, 46.043, and 46.044, 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 commerce, 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.

*[For text of subds 3 to 8, see M.S.1984]*

**History:** *1985 c 248 s 20*

**60A.08 CONTRACTS OF INSURANCE.***[For text of subds 1 to 10, see M.S.1984]*

**Subd. 11. Directors' and officers' liability policies.** No misrepresentation or omission made in an application or negotiation for any policy providing directors and officers liability coverage for directors or officers of a corporation shall defeat or avoid coverage or prevent the policy from attaching for a director or officer unless the director or officer has signed the application and has actual knowledge of the facts misrepresented or omitted. The application shall be attached to and incorporated into the contract. This subdivision applies with respect to all policies governed by this chapter or issued or renewed in this state.

**History:** 1985 c 251 s 1

**60A.10 DEPOSITS.**

**Subdivision 1. Domestic companies.** (1) **Deposit as security for all policyholders required.** No company in this state, other than farmers' mutual, or real estate title insurance companies, shall do business in this state unless it has on deposit with the commissioner, for the protection of both its resident and nonresident policyholders, securities to an amount, the actual market value of which, exclusive of interest, shall never be less than \$200,000 until July 1, 1986, \$300,000 until July 1, 1987, \$400,000 until July 1, 1988, and \$500,000 on and after July 1, 1988. The securities shall be retained under the control of the commissioner as long as any policies of the depositing company remain in force.

(2) **Securities defined.** For the purpose of this subdivision, the word "securities" means bonds or other obligations of, or bonds or other obligations insured or guaranteed by, the United States, any state of the United States, any municipality of this state, or any agency or instrumentality of the foregoing.

(3) **Protection of deposit from levy.** No judgment creditor or other claimant may levy upon any securities held on deposit with, or for the account of, the commissioner. Upon the entry of an order by a court of competent jurisdiction for the rehabilitation, liquidation or conservation of any depositing company as provided in chapter 60B, that company's deposit together with any accrued income thereon shall be transferred to the commissioner as rehabilitator, liquidator, or conservator.

**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 an amount not less than that required by subdivision 1 in 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 the value so certified. No deposit shall be required in this state while the deposit, so certified, remains.

**Subd. 2a. Special deposits.** The commissioner may require a special deposit of an individual foreign insurer for the protection of its Minnesota policyholders or claimants. The special deposit may be required, to a maximum amount of \$500,000. In the event of the filing of a delinquency petition against the insurer in Minnesota, the deposit is subject to chapters 60B, 60C, and 61A.

**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.** No later than July 1, 1975, all securities held on deposit with the commissioner pursuant to the laws of this state, or in accordance with an order of the commissioner, shall be deposited for the account of the commissioner in such state or national bank in this state as the depositing insurer may designate and the commissioner may approve. Said deposits shall be made and maintained in accordance with a custodial agreement between the bank and the depositing insurer in a form approved by the commissioner which shall provide as a minimum that (1) the fees of the custodian are to be the obligation of the depositing insurer, and (2) there shall be no exchange, release or transfer of any deposited security unless the commissioner has assented thereto in writing. Securities evidenced by the Federal Reserve book entry system may be deposited in the name of the commissioner of commerce for the benefit of all policyholders of the depositor.

Subd. 6. **Rules.** The commissioner of commerce shall have the power to make such rules as may be necessary for the execution of the functions vested in him by this section.

**History:** *1Sp1985 c 10 s 50*

## **60A.11 INVESTMENTS FOR DOMESTIC COMPANIES.**

*[For text of subs 1 to 20, see M.S.1984]*

Subd. 21. **Foreign investments.** Obligations of and investments in foreign countries, on the following conditions:

(a) a company may acquire and hold any foreign investments which are required as a condition of doing business in the foreign country or necessary for the convenient accommodation of its foreign business. An investment is considered necessary for the convenient accommodation of the insurance company's foreign business only if it is demonstrably and directly related in size and purpose to the company's foreign insurance operations; and

(b) a company may also invest not more than a total of two percent of its admitted assets in any combination of:

(1) the obligations of foreign governments, corporations, or business trusts;

(2) obligations of federal, provincial, or other political subdivisions backed by the full faith and credit of the foreign governmental unit;

**60A.11 DEPARTMENT OF COMMERCE; INSURANCE**

4

(3) or in the stocks or stock equivalents or obligations of foreign corporations or business trusts not qualifying for investment under subdivision 12, if the obligations, stocks or stock equivalents are listed or regularly traded on the London, Paris, Zurich, or Tokyo stock exchange or any similar regular securities exchange not disapproved by the commissioner within 30 days following notice from the company of its intention to invest in these securities.

*[For text of subds 22 to 26, see M.S.1984]*

**History:** *1Sp1985 c 16 art 2 s 17*

**60A.13 ANNUAL STATEMENT, INQUIRIES, ABSTRACTS, PUBLICATION THEREOF.**

*[For text of subd 1, see M.S.1984]*

Subd. 1a. In addition, on or before March 1 of each year, an insurance company, including reciprocal exchanges, doing business in Minnesota shall file with the commissioner of revenue a copy of the annual statement required by subdivision 1. A company that fails to file a copy of the statement with the commissioner is subject to the penalties in section 72A.061.

*[For text of subds 2 to 7, see M.S.1984]*

**History:** *1985 c 210 art 1 s 1*

**60A.131 OTHER BUSINESS AND INSURANCE INTERESTS, DISCLOSURE.**

Subdivision 1. If requested by the commissioner, an 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.

*[For text of subds 2 to 4, see M.S.1984]*

**History:** *1Sp1985 c 10 s 51*

**60A.15 TAXATION OF INSURANCE COMPANIES.**

*[For text of subds 1 to 11, see M.S.1984]*

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 revenue a claim for a refund of the excess. Except as provided in subdivision 11, no claim or refund shall be allowed or made after 3-1/2 years from the date prescribed for filing the return (plus any extension of time granted for filing the return but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the company. For this purpose, a return or amended return claiming an overpayment constitutes a claim for refund.

Upon the filing of a claim, the commissioner shall examine it and shall make and file written findings denying or allowing the claim in whole or in part. He shall mail a notice thereof to the company at the address stated upon the return. If the 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 specified

in section 270.76 computed from the date of the payment of the tax until the date the refund is paid or the credit is made to the company. The commissioner of finance shall pay the refund out of the proceeds of the taxes imposed by this section, as other state moneys are expended. As much of the proceeds of the taxes as necessary are appropriated for that purpose.

(2) **Denial of claim, court proceedings.** If the claim is denied in whole or in part, the commissioner shall mail an order of denial to the company in the manner prescribed in subdivision 8. An appeal from this order may be taken to the Minnesota tax court in the manner prescribed in section 271.06, or the company may commence an action against the commissioner to recover the denied overpayment. The action may be brought in the district court of the district in the county of its principal place of business, or in the district court for Ramsey county. The action in the district court must be commenced within 18 months following the mailing of the order of denial to the company. If a claim for refund is filed by a company and no order of denial is issued within six months of the filing, the company may commence an action in the district court as in the case of a denial, but the action must be commenced within two years of the date that the claim for refund was filed.

(3) **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. The period within which a claim for refund may be filed shall not expire prior to two years after the tax was paid.

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

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

*[For text of subd 13, see M.S.1984]*

Subd. 14. [Repealed, 1Sp1985 c 10 s 123]

**History:** 1Sp1985 c 14 art 15 s 1

## 60A.17 AGENTS; SOLICITORS.

*[For text of subd 1, see M.S.1984]*

Subd. 1a. **License application.** (a) **Procedure.** An application for a license to act as an insurance agent shall be made to the commissioner by the person who seeks to be licensed. The application for license shall be accompanied by a written appointment from an admitted insurer authorizing the applicant to act as its agent under one or both classes of license. The insurer must also submit its check payable to the state treasurer for the amount of the appointment fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (9) at the time the agent becomes licensed. The application and appointment shall be on forms prescribed by the commissioner.

If the applicant is a natural person, no license shall be issued until that natural person has become qualified.

If the applicant is a partnership or corporation, no license shall be issued until at least one natural person who is a partner, director, officer, stockholder, or employee shall be licensed as an insurance agent.

(b) **Resident agent.** The commissioner shall issue a resident insurance agent's license to a qualified resident of this state as follows:

(1) a person may qualify as a resident of this state if that person resides in this state or the principal place of business of that person is maintained in this state. Application for a license claiming residency in this state for licensing purposes, shall constitute an election of residency in this state. Any license issued upon an application claiming residency in this state shall be void if the licensee, while holding a resident license in this state, also holds, or makes application for, a resident license in, or thereafter claims to be a resident of, any other state or jurisdiction or if the licensee ceases to be a resident of this state; provided, however, if the applicant is a resident of a community or trade area, the border of which is contiguous with the state line of this state, the applicant may qualify for a resident license in this state and at the same time hold a resident license from the contiguous state;

(2) the commissioner shall subject each applicant who is a natural person to a written examination as to the applicant's competence to act as an insurance agent. The examination shall be held at a reasonable time and place designated by the commissioner;

(3) the examination shall be approved for use by the commissioner and shall test the applicant's knowledge of the lines of insurance, policies, and transactions to be handled under the class of license applied for, of the duties and responsibilities of the licensee, and pertinent insurance laws of this state;

(4) the examination shall be given only after the applicant has completed a program of classroom studies in a school, which shall include a school conducted by an admitted insurer. The course of study shall consist of 30 hours of classroom study devoted to the basic fundamentals of insurance for those seeking a Minnesota license for the first time, 15 hours devoted to specific life and health topics for those seeking a life and health license, and 15 hours devoted to specific property and casualty topics for those seeking a property and casualty license. The program of studies or study course shall have been approved by the commissioner in order to qualify under this clause. 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 the organization offering the course shall accompany the applicant'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 order;

(5) the applicant must pass the examination with a grade determined by the commissioner to indicate satisfactory knowledge and understanding of the class or classes of insurance for which the applicant seeks qualification. The commissioner shall inform the applicant as to whether or not the applicant has passed;

(6) an applicant who has failed to pass an examination may take subsequent examinations. Examination fees for subsequent examinations shall not be waived; and

(7) any applicant for a license covering the same class or classes of insurance for which the applicant was licensed under a similar license in this state, other than a temporary license, within the three years preceding the date of the application shall

be exempt from the requirement of a written examination, unless the previous license was revoked or suspended by the commissioner.

(c) **Nonresident agent.** The commissioner shall issue a nonresident insurance agent's license to a qualified person who is a resident of another state or country as follows:

(1) A person may qualify for a license under this section as a nonresident only if that person holds a license in another state, province of Canada, or other foreign country which, in the opinion of the commissioner, qualifies that person for the same activity as that for which a license is sought;

(2) The commissioner shall not issue a license to any nonresident applicant until that person files with the commissioner a designation of the commissioner and the commissioner's successors in office as the applicant's true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the applicant's insurance business in this state. This designation shall constitute an agreement that this service of process is of the same legal force and validity as personal service of process in this state upon that applicant.

Service of process upon any licensee in any action or proceeding commenced in any court of competent jurisdiction of this state may be made by serving the commissioner with appropriate copies of the process along with payment of the fee pursuant to section 60A.14, subdivision 1, paragraph (c), clause (4). The commissioner shall forward a copy of the process by registered or certified mail to the licensee at the last known address of record or principal place of business of the licensee; and

(3) A nonresident license shall terminate automatically when the resident license for that class of license in the state, province, or foreign country in which the licensee is a resident is terminated for any reason.

(d) **Denial.** (1) If the commissioner finds that an applicant for a resident or nonresident license has not fully met the requirements for licensing, the commissioner shall refuse to issue the license and shall promptly give written notice to both the applicant and the appointing insurer of the denial, stating the grounds for the denial. All fees which accompanied the application and appointment shall be deemed earned and shall not be refundable.

(2) The commissioner may also deny issuance of a license for any cause that would subject the license of a licensee to suspension or revocation. If a license is denied pursuant to this clause, the provisions of subdivision 6c, paragraph (c) apply.

(3) The applicant may make a written demand upon the commissioner for a hearing within 30 days of the denial of a license to determine whether the reasons stated for the denial were lawful. The hearing shall be held pursuant to chapter 14.

(e) **Term.** All licenses issued pursuant to this section shall remain in force until voluntarily terminated by the licensee, not renewed as prescribed in subdivision 1d, or until suspended or revoked by the commissioner. A voluntary termination shall occur when the license is surrendered to the commissioner with the request that it be terminated or when the licensee dies, or when the licensee is dissolved or its existence is terminated. In the case of a nonresident license, a voluntary termination shall also occur upon the happening of the event described in paragraph (c), clause (3).

Every licensed agent shall notify the commissioner within 30 days of any change of name, address, or information contained in the application.

(f) **Subsequent appointments.** A person who holds a valid agent's license from this state may solicit applications for insurance on behalf of an admitted insurer with

which the licensee does not have a valid appointment on file with the commissioner; provided, that the licensee has permission from the insurer to solicit insurance on its behalf and, provided further, that the insurer upon receipt of the application for insurance submits a written notice of appointment to the commissioner accompanied by its check payable to the state treasurer in the amount of the appointment fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (9). The notice of appointment shall be on a form prescribed by the commissioner.

(g) **Amendment of license.** An application to the commissioner to amend a license to reflect a change of name, or to include an additional class of license, or for any other reason, shall be on forms provided by the commissioner and shall be accompanied by the applicant's surrendered license and a check payable to the state treasurer for the amount of fee specified in section 60A.14, subdivision 1, paragraph (c).

An applicant who surrenders an insurance license pursuant to this clause retains licensed status until an amended license is received.

(h) **Exceptions.** The following are exempt from the general licensing requirements prescribed by this section:

- (1) agents of township mutuals who are exempted pursuant to subdivision 1b;
- (2) fraternal beneficiary association representatives exempted pursuant to subdivision 1c;

(3) any regular salaried officer or employee of a licensed insurer, without license or other qualification, may act on behalf of that licensed insurer in the negotiation of insurance for that insurer; provided that a licensed agent must participate in the sale of any such insurance;

(4) employers and their officers or employees, and the trustees or employees of any trust plan, to the extent that the employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits for the employees of the employers or employees of their subsidiaries or affiliates involving the use of insurance issued by a licensed insurance company; provided, that the activities of the officers, employees and trustees are incidental to clerical or administrative duties and their compensation does not vary with the volume of insurance or applications therefor;

(5) employees of a creditor who enroll debtors for life or accident and health insurance; provided the employees receive no commission or fee therefor; and

(6) clerical or administrative employees of an insurance agent who take insurance applications or receive premiums in the office of their employer, if the activities are incidental to clerical or administrative duties and the employee's compensation does not vary with the volume of the applications or premiums.

*[For text of subds 1b to 19, see M.S.1984]*

**History:** 1Sp1985 c 10 s 52

## 60A.1701 CONTINUING INSURANCE EDUCATION.

*[For text of subds 1 to 4, see M.S.1984]*

**Subd. 5. Powers of the advisory task force.** (a) Applications for accreditation of each course and for approval of individuals responsible for monitoring course offerings must be submitted to the commissioner on forms prescribed by the commissioner and must be accompanied by a fee of not more than \$50 payable to the state of Minnesota for deposit in the general fund. If the advisory task force is created, it shall make recommendations to the commissioner regarding the accredita-



tion of courses sponsored by institutions, both public and private, which satisfy the criteria established by this section, the number of credit hours to be assigned to the courses, and rules which may be promulgated by the commissioner. The advisory task force shall seek out and encourage the presentation of courses.

(b) If the advisory task force is created, it shall make recommendations and provide subsequent evaluations to the commissioner regarding procedures for reporting compliance with the minimum education requirement.

*[For text of subds 6 to 9, see M.S.1984]*

**Subd. 10. Reporting.** (a) After completing the minimum education requirement, each person subject to this section shall file or cause to be filed a compliance report in accordance with the procedures adopted by the commissioner.

(b) An institution offering an accredited course shall comply with the procedure for reporting compliance adopted by the commissioner.

(c) If a person subject to this section completes a nonaccredited course, he may submit a written report to the advisory committee accompanied by a fee of not more than \$10 payable to the state of Minnesota for deposit in the general fund. This report must be accompanied by proof satisfactory to the commissioner that the person has completed the minimum education requirement for the annual period during which the nonaccredited course was completed. Upon the recommendation of the advisory committee that the course satisfies the criteria for course accreditation, the commissioner may approve the nonaccredited course and shall so inform the person. If the nonaccredited course is approved by the commissioner, it may be used to satisfy the minimum education requirement for the person's next annual compliance period.

*[For text of subd 11, see M.S.1984]*

**History:** *1Sp1985 c 10 s 53,54*

## **60A.199 EXAMINATIONS.**

*[For text of subds 1 to 7, see M.S.1984]*

**Subd. 8. Refund procedure; time limit; appropriation.** A company which has paid, voluntarily or otherwise, or from which there was collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of revenue a claim for a refund of the excess. Except as provided in subdivision 3, no claim or refund shall be allowed or made after 3-1/2 years from the date prescribed for filing the return (plus any extension of time granted for filing the return but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the company. For this purpose, a return or amended return claiming an overpayment constitutes a claim for refund.

Upon the filing of a claim the commissioner shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part. He shall mail a notice thereof to the company at the address stated upon the return. If the claim is allowed in whole or in part, the commissioner shall issue his certificate for a refund of the excess paid by the company, with interest at the rate specified in section 270.76 computed from the date of the payment of the tax until the date the refund is paid or credit is made to the company. The commissioner of finance shall cause the refund to be paid as other state moneys are expended. So much of the proceeds of the taxes as is necessary are appropriated for that purpose.

*[For text of subds 9 to 11, see M.S.1984]*

**History:** *1Sp1985 c 14 art 15 s 2*