

CHAPTER 60A

DEPARTMENT OF COMMERCE; INSURANCE

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60A.084 NOTIFICATION ON GROUP POLICIES.

An employer providing life or health benefits may not change benefits, limit coverage, or otherwise restrict participation until the certificate holder or enrollee has been notified of any changes, limitations, or restrictions. Notice in a format which meets the requirements of the Employee Retirement Income Security Act, United States Code Annotated, title 29, sections 1001 to 1461, is satisfactory for compliance with this section.

History: 1987 c 337 s 3

60A.101 SELF-INSURERS; DEPOSIT OF SECURITIES.

Subdivision 1. **Requirement.** A workers' compensation self-insurer, except the state and its political subdivisions, as well as political subdivision self-insurance pools exempted by sections 471.98 to 471.982 must deposit securities or surety bonds acceptable to the commissioner of commerce of a value at least equal to:

(1) 110 percent of its total outstanding workers' compensation liability provided that the deposit shall be no less than the retention level selected with the workers' compensation reinsurance association, for an employer who has been self-insured for at least two years. The total outstanding workers' compensation liability incurred must be certified by an actuary who is a member of the casualty actuarial society one year after the date of authority to self-insure and every fourth year thereafter unless requested more frequently by the commissioner of commerce. Self-insurers authorized to self-insure on July 1, 1987, must provide this actuarial certification of outstanding liabilities by July 1, 1988, or upon the anniversary of their authority to self-insure, whichever comes first; or

(2) the greater of the retention level selected with the workers' compensation reinsurance association, or 70 percent of the employer's estimated current modified premium as developed using the rates currently utilized by the Minnesota workers' compensation assigned risk plan for an employer who has been self-insured less than two years.

Subd. 2. **Surety bond form.** The bond shall be in the form as follows:

"KNOW ALL PERSONS BY THESE PRESENTS: That we, (entity to be bonded), of (location), (hereinafter called the "principal(s)"), as principal(s), and (bonding company name), a (name of state) corporation, of (location) (hereinafter called the "surety"), as surety, are held and firmly bound unto the commissioner of commerce of the STATE OF MINNESOTA for the use and benefit of the employees of the principal(s) and to pay workers' compensation obligations of the principal(s) in the sum of (amount in writing), for the payment of which well and truly to be made, the principal(s) bind themselves, their successors and assigns, and the surety binds itself and its successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, in accordance with the provisions of Minnesota Statutes, section 176.181, the principal(s) has by written order of the commissioner of commerce of the state of Minnesota been exempted from insuring their liability for compensation according to the Minnesota workers' compensation act and have been permitted by order to self-insure all liability hereafter arising under the workers' compensation act.

NOW, THEREFORE, the condition of this obligation is such that if the principal(s) shall, according to the terms, provisions, and limitations of the Minnesota workers' compensation act, pay all of the principal's liabilities and obligations under the act, including all benefits as provided by the act, then this obligation shall be null and void, otherwise to remain in full force and effect subject, however, to the following terms and conditions.

(a) The liability of the surety is limited to the payment of all legal liabilities and obligations, including payment of compensation and medical benefits, provided by the workers' compensation act of Minnesota which are payable by the principals for or on account of personal injuries or occupational diseases sustained during or attributable to the entire period that the bond is in effect, subject to cancellation, as provided in paragraphs (b) and (c). In no event shall the total liability of the surety exceed the penal amount of the bond.

(b) In the event of a default, whenever occurring, on the part of the principal(s) to abide by any award, order, or decision directing and awarding payment of such legal liabilities, obligations, or benefits to or on behalf of any employee or the dependents of any deceased employee, which occurred during the period this bond remains in force regardless of whether this bond has been canceled prior to the making of the claim or the award, order, or decision, the commissioner of commerce may, upon 20-days notice to the surety and opportunity to be heard, require the surety to pay the amount of the award, order, or decision to be enforced in the same manner as an award may be enforced against said principal(s).

(c) Service on the surety shall be deemed to be service on the principals.

(d) This bond shall continue in force from year to year unless canceled as herein provided. However, the penal amount of the bond must be revised each year to comply with all statutory requirements and rules. Regardless of the number of years this bond remains in force or the number of annual premiums paid or payable, the total liability of the surety hereunder may not exceed the penal amount of the bond.

(e) This bond may be canceled at any time by the surety by giving 60-days notice in writing to the commissioner of commerce of the state of Minnesota at its offices in the city of St. Paul, Minnesota, and upon expiration of said 60 days, the liability of the surety hereunder shall cease, except as to liability incurred hereunder prior to the expiration of said 60 days, as set out in paragraph (a).

(f) This bond shall become effective at (time of day, month, day, year).

IN TESTIMONY WHEREOF, said principal(s) and said surety have caused this instrument to be signed by their respective duly-authorized officers and their corporate seals to be hereunto affixed this (day, month, year).

Signed, sealed, and delivered in the presence of:

.....
.....
.....

Corporation Name
By:
Bonding Company Name
By:

Subd. 3. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them.

"Control" means, with respect to a company or organization authorized to self-insure under section 176.181, and Minnesota Rules, parts 2780.0100 to 2780.9920:

(1) the ownership of, directly or indirectly, or acting through one or more other persons, control of or the power to vote, 25 percent of more of any class of voting securities; and

(2) control in any manner over the election of a majority of the directors.

History: 1987 c 332 s 2

60A.11 INVESTMENTS FOR DOMESTIC COMPANIES.

[For text of subs 1 to 9, see M.S.1986]

Subd. 10. Definitions. The following terms have the meaning assigned in this subdivision for purposes of this section and section 60A.111:

(a) "Admitted assets," for purposes of computing percentage limitations on particular types of investments, means the assets as shown by the company's annual statement, required by section 60A.13, as of the December 31 immediately preceding the date the company acquires the investment;

(b) "Clearing corporation" means The Depository Trust Company or any other clearing agency registered with the federal securities and exchange commission pursuant to the Federal Securities Exchange Act of 1934, section 17A, Euro-clear Clearance System Limited and CEDEL S.A., and, with the approval of the commissioner, any other clearing corporation as defined in section 336.8-102;

(c) "Control" has the meaning assigned to that term in, and must be determined in accordance with, section 60D.01, subdivision 4;

(d) "Custodian bank" means a bank or trust company or a branch of a bank or trust company that is acting as custodian and is supervised and examined by state or federal authority having supervision over the bank or trust company or with respect to a company's foreign investments only by the regulatory authority having supervision over banks or trust companies in the jurisdiction in which the bank, trust company, or branch is located, and specifically includes Euro-clear Clearance System Limited and CEDEL S.A., acting as custodians;

(e) "Issuer" means the corporation, business trust, governmental unit, partnership, association, individual, or other entity which issues or on behalf of which is issued any form of obligation;

(f) "Member bank" means a national bank, state bank or trust company which is a member of the Federal Reserve System;

(g) "National securities exchange" means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada;

(h) "Obligations" include bonds, notes, debentures, transportation equipment certificates, repurchase agreements, bank certificates of deposit, time deposits, bankers' acceptances, and other obligations for the payment of money not in default as to payments of principal and interest on the date of investment, whether constituting general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment. Leases are considered obligations if the lease is assigned for the benefit of the company and is nonterminable by the lessee or lessees thereunder upon foreclosure of any lien upon the leased property, and rental payments are sufficient to amortize the investment over the primary lease term;

(i) "Qualified assets" means the sum of (1) all investments qualified in accordance with this section other than investments in affiliates and subsidiaries, (2) investments in obligations of affiliates as defined in section 60D.01, subdivision 2 secured by real or personal property sufficient to qualify the investment under subdivision 19 or 23, (3) qualified investments in subsidiaries, as defined in section 60D.01, subdivision 9, on a consolidated basis with the insurance company without allowance for goodwill or other intangible value, and (4) cash on hand and on deposit, agent's balances or uncollected premiums not due more than 90 days, assets held pursuant to section 60A.12, subdivision 2, investment income due and accrued, funds due or on deposit or recoverable on loss payments under contracts of reinsurance entered into pursuant to section 60A.09, premium bills and notes receivable, federal income taxes recoverable, and equities and deposits in pools and associations;

(j) "Qualified net earnings" means that the net earnings of the issuer after elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or

its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period;

(k) "Required liabilities" means the sum of (1) total liabilities as required to be reported in the company's most recent annual report to the commissioner of commerce of this state, (2) for companies operating under the stock plan, the minimum paid-up capital and surplus required to be maintained pursuant to section 60A.07, subdivision 5a, (3) for companies operating under the mutual or reciprocal plan, the minimum amount of surplus required to be maintained pursuant to section 60A.07, subdivision 5b, and (4) the amount, if any, by which the company's loss and loss adjustment expense reserves exceed 350 percent of its surplus as it pertains to policyholders as of the same date. The commissioner may waive the requirement in clause (4) unless the company's written premiums exceed 300 percent of its surplus as it pertains to policyholders as of the same date. In addition to the required amounts pursuant to clauses (1) to (4), the commissioner may require that the amount of any apparent reserve deficiency that may be revealed by one to five year loss and loss adjustment expense development analysis for the five years reported in the company's most recent annual statement to the commissioner be added to required liabilities; and

(l) "Unrestricted surplus" means the amount by which qualified assets exceed 110 percent of required liabilities.

[For text of subs 11 to 25, see M.S.1986]

Subd. 26. **Rules.** (a) The commissioner may adopt appropriate rules to carry out the purpose and provisions of this section.

(b) A company may make qualified investments in any additional securities or property of any kind with the written order of the commissioner. This approval is at the discretion of the commissioner.

(c) Nothing authorized in this subdivision negates or reduces the investment authority granted in subdivisions 1 to 25.

History: 1987 c 189 s 1,2

60A.14 FEES.

Subdivision 1. **Fees other than examination fees.** In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies:

(1) for filing certificate of incorporation \$25 and amendments thereto, \$10;

(2) for filing annual statements, \$15;

(3) for each annual certificate of authority, \$15;

(4) for filing bylaws \$25 and amendments thereto, \$10.

(b) by other domestic and foreign companies including fraternal and reciprocal exchanges:

(1) for filing certified copy of certificate of articles of incorporation, \$100;

(2) for filing annual statement, \$225;

(3) for filing certified copy of amendment to certificate or articles of incorporation, \$100;

(4) for filing bylaws, \$75 or amendments thereto, \$75;

(5) for each company's certificate of authority, \$575, annually.

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, \$15;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and \$2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, \$575;

(4) for receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of commerce, as attorney for service of process upon any nonresident agent or insurance company, including reciprocal exchanges, \$15 plus the cost of effectuating service by certified mail, which amount must be paid by the party serving the notice and may be taxed as other costs in the action;

(5) for valuing the policies of life insurance companies, one cent per \$1,000 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 the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(6) 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;

(7) for issuing an initial license to an individual agent, \$20 per license, for issuing an initial agent's license to a partnership or corporation, \$50, and for issuing an amendment (variable annuity) to a license, \$20, and for renewal of amendment, \$20;

(8) for each appointment of an agent filed with the commissioner, a domestic insurer shall remit \$5 and all other insurers shall remit \$3;

(9) for renewing an individual agent's license, \$20 per year per license, and for renewing a license issued to a corporation or partnership, \$50 per year;

(10) for issuing and renewing a surplus lines agent's license, \$150;

(11) for issuing duplicate licenses, \$5;

(12) for issuing licensing histories, \$10;

(13) for filing forms and rates, \$50 per filing;

(14) for annual renewal of surplus lines insurer license, \$300.

The commissioner shall adopt rules to define filings that are subject to a fee.

[For text of subd 2, see M.S.1986]

History: 1987 c 358 s 94

60A.15 TAXATION OF INSURANCE COMPANIES.

Subdivision 1. **Domestic and foreign companies.** On or before April 15, June 15, and December 15 of each year, every domestic and foreign company, including town and farmers' mutual insurance companies and domestic mutual insurance companies, shall pay to the commissioner of revenue installments equal to one-third 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. Failure of a company to make payments of at least one-third 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 section.

[For text of subs 1a to 1e, see M.S.1986]

Subd. 2. [Repealed, 1987 c 268 art 2 s 38]

[For text of subs 2a to 13, see M.S.1986]

History: 1987 c 268 art 2 s 1

60A.17 AGENTS; SOLICITORS.

[For text of subd 1, see M.S.1986]

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 not include a school sponsored by, offered by, or affiliated with an insurance company or its agents; except that this limitation does not preclude a bona fide professional association of agents, not acting on behalf of an insurer, from offering courses. 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. An applicant whose license is not renewed under subdivision 20 is exempt from the requirement of a written examination.

(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;
- (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; and
- (7) rental vehicle companies and their employees in connection with the offer of rental vehicle personal accident insurance under section 72A.125.

[For text of subs 1b to 1d, see M.S.1986]

Subd. 2c. Temporary licenses. The commissioner may grant a temporary insurance agent's license to a person who has successfully completed the examination, if any, required by the commissioner. The temporary license may be granted as of the date upon which the applicant receives written notice from the commissioner that the person has passed any required examination. A temporary license will permit the applicant to act as an insurance agent for the original appointing insurer for the class of business specified therein until the earlier of (a) receipt by the applicant of the resident license, or (b) the expiration of 90 days from the date on which the temporary license was granted.

[For text of subs 2d to 6b, see M.S.1986]

Subd. 6c. Revocation or suspension of license. (a) The commissioner may by order suspend or revoke an insurance agent's or agency's license issued to a natural person or impose a civil penalty appropriate to the offense, not to exceed \$5,000 upon that licensee, or both, if, after notice and hearing, the commissioner finds as to that licensee any one or more of the following conditions:

- (1) any materially untrue statement in the license application;
 - (2) any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance;
 - (3) violation of, or noncompliance with, any insurance law or violation of any rule or order of the commissioner or of a commissioner of insurance of another state or jurisdiction;
 - (4) obtaining or attempting to obtain any license through misrepresentation or fraud;
 - (5) improperly withholding, misappropriating, or converting to the licensee's own use any money belonging to a policyholder, insurer, beneficiary, or other person, received by the licensee in the course of the licensee's insurance business;
 - (6) misrepresentation of the terms of any actual or proposed insurance contract;
 - (7) conviction of a felony or of a gross misdemeanor or misdemeanor involving moral turpitude;
 - (8) that the licensee has been found guilty of any unfair trade practice, as defined in chapters 60A to 72A, or of fraud;
 - (9) that in the conduct of the agent's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or the licensee has been shown to be incompetent, untrustworthy, or financially irresponsible;
 - (10) that the agent's license has been suspended or revoked in any other state, province, district, territory, or foreign country;
 - (11) that the licensee has forged another's name to an application for insurance;
- or
- (12) that the licensee has violated subdivision 6b.

(b) The commissioner may by order suspend or revoke an insurance agent's or insurance agency's license issued to a partnership or corporation or impose a civil penalty not to exceed \$5,000 upon that licensee, or both, if, after notice and hearing, the commissioner finds as to that licensee, or as to any partner, director, shareholder, officer, or employee of that licensee, any one or more of the conditions set forth in paragraph (a).

(c) A revocation of a license shall prohibit the licensee from making a new application for a license for at least one year. Further, the commissioner may, as a condition of relicensure, require the applicant to file a reasonable bond for the protection of the citizens of this state, which bond shall be maintained by the licensee in full force for a period of five years immediately following issuance of the license, unless the commissioner at the commissioner's discretion shall after two years permit the licensee to sooner terminate the maintenance filing of the bond.

(d) The commissioner may, in the manner prescribed by chapter 14, impose a civil penalty not to exceed \$5,000 upon a person whose license has lapsed, or been suspended, revoked, or otherwise terminated, for engaging in conduct prohibited by paragraph (a) before, during, or after the period of licensure.

[For text of subs 6d to 10, see M.S.1986]

Subd. 11. Insurer's agent. Any person who solicits insurance is the agent of the insurer and not the agent of the insured.

Subd. 12. Liability for placing insurance in unauthorized company. Any person, regardless of whether that person is required to be licensed as an insurance agent, who participates in any manner in the sale of any insurance policy or certificate, or any other contract providing benefits, 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, other than pursuant to sections 60A.195 to 60A.209, shall be personally liable for all premiums, whether earned or unearned, paid by the insured, and the premiums may be recovered by the insured. In addition, that person 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, certificate, or contract or which would have been covered if the policy, certificate, or contract had been issued to the purchaser of the insurance.

Subd. 13. Agents; variable contracts. (a) License required. No person shall sell or offer for sale a contract on a variable basis unless prior to making any solicitation or sale the person has obtained from the commissioner a license therefor. The license shall only be granted, upon the written requisition of an insurer, to a qualified person who holds a current license authorizing the person 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.

(b) Exceptions. (1) Any regularly salaried officer or employee of a licensed insurer may, without license or other qualification, act on behalf of that licensed insurer in the negotiation of a contract on a variable basis, provided that a licensed agent must participate in the sale of any contract.

(2) Any person who, on July 1, 1969, holds a valid license authorizing the person to solicit and sell life insurance and annuity contracts and who also holds a valid license issued by the department of commerce authorizing the person to sell or offer for sale contracts on a variable basis shall be issued a license by the commissioner of commerce 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 paragraph (a).

(3) Any person who holds a valid license to solicit and sell life insurance and annuity contracts may solicit and sell contracts on a variable basis without acquiring a license under this subdivision if the contract is based on an account which is excluded from the definition of investment company under the Investment Company Act of 1940, United States Code, title 15, section 80a-3(11).

(c) Rules. The commissioner may by rules waive or modify any of the foregoing requirements or prescribe additional requirements deemed necessary for the proper sale and solicitation of contracts on a variable basis.

[For text of subds 14 to 20, see M.S.1986]

History: 1987 c 336 s 7; 1987 c 337 s 4-7; 1987 c 384 art 2 s 14

60A.1701 CONTINUING INSURANCE EDUCATION.

[For text of subds 1 to 4, see M.S.1986]

Subd. 5. Powers of the advisory task force. (a) Applications 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. A fee of \$5 for each hour or fraction of one hour of course approval sought must be forwarded with the application for course approval. If the advisory task force is created, it shall make recommendations to the commissioner regarding the accreditation 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 subd 6, see M.S.1986]

Subd. 7. Criteria for course accreditation. (a) The commissioner may accredit a course only to the extent it is designed to impart substantive and procedural knowledge of the insurance field. The burden of demonstrating that the course satisfies this requirement is on the individual or organization seeking accreditation. The commis-

sioner shall approve any educational program approved by Minnesota Continuing Legal Education relating to the insurance field.

(b) The commissioner may not accredit a course:

- (1) that is designed to prepare students for a license examination;
- (2) in mechanical office or business skills, including typing, speedreading, use of calculators, or other machines or equipment;
- (3) in sales promotion, including meetings held in conjunction with the general business of the licensed agent;
- (4) in motivation, the art of selling, psychology, or time management;
- (5) unless the student attends classroom instruction conducted by an instructor approved by the department of commerce; or
- (6) which can be completed by the student at home or outside the classroom without the supervision of an instructor approved by the department of commerce.

Subd. 8. **Minimum education requirement.** Each person subject to this section shall complete annually a minimum of 20 credit hours of courses accredited by the commissioner. Any person teaching or lecturing at an accredited course qualifies for 1-1/2 times the number of credit hours that would be granted to a person completing the accredited course. No more than ten credit hours per year may be credited to a person for courses sponsored by, offered by, or affiliated with an insurance company or its agents. Courses sponsored by, offered by, or affiliated with an insurance company or agent may restrict its students to agents of the company or agency.

[For text of subds 9 to 11, see M.S.1986]

History: 1987 c 337 s 8-10

60A.171 REHABILITATION AND CANCELLATION OF AGENCY CONTRACTS BY FIRE AND CASUALTY LOSS INSURANCE COMPANIES.

Subdivision 1. After an agency contractual relationship has been in effect for a period of three years, an insurance company writing fire or casualty loss insurance in this state may not terminate the agency contractual relationship with any appointed agent unless the company has attempted to rehabilitate the agent as provided in subdivision 3a and gives the agent notice in writing of the termination at least three months in advance.

[For text of subd 2, see M.S.1986]

Subd. 3. No new business shall be written by the agent for the company after the effective date of the termination without the written approval of the company, or a limited contract. The agent may increase liability on renewal or in force business for not more than one year for the insured after the effective date of the termination if the increased liability meets the current underwriting standards of the company.

Subd. 3a. (a) Following proper notice as required under subdivision 1, and prior to the effective date of termination of the agency contract, in an effort to avoid termination, the company shall negotiate in good faith in an effort to reach mutual agreement with the agent on a written plan for rehabilitation.

(b) The rehabilitation plan must be in writing and must contain the following elements:

- (1) identification by the company of the problem areas which need rehabilitation;
 - (2) what the agent must do to avoid termination;
 - (3) how the company intends to assist the agent to avoid termination;
 - (4) the mutually agreed upon corrective action to be undertaken by the agent and the specific target dates for accomplishment;
 - (5) periodic meeting dates at which the status of rehabilitation will be reviewed;
- and

(6) the term of the written plan which must extend for at least one year after the notice of termination.

(c) All agency contracts in existence on May 13, 1987, are subject to the rehabilitation requirement under subdivision 1. The rehabilitation plan need not be incorporated into the agency contract.

[For text of subs 4 to 8, see M.S.1986]

History: 1987 c 92 s 1-3

60A.172 INSURANCE AGENCY CONTRACTS; CANCELLATION.

(a) An insurer may not cancel a written agreement with an agent or, without the agent's written approval at the time of a reduction or restriction, reduce or restrict an agent's underwriting authority with respect to property or casualty insurance, based solely on the loss ratio experience on that agent's book of business, if: the insurer required the agent to submit the application for underwriting approval, all material information on the application was fully completed, and the agent has not omitted or altered any information provided by the applicant.

(b) For purposes of this section, "loss ratio experience" means the ratio of premiums paid divided by the claims paid during the previous two-year period.

(c) This section applies only to agents who write insurance business exclusively for one company and are not in the direct employ of the company.

History: 1987 c 288 s 1

60A.173 EFFECTIVE DATE.

Section 60A.172 is effective January 1, 1987, and applies to cancellations begun as of that date. As a condition of doing business in the state of Minnesota, an insurer shall promptly reinstate any agreements canceled under section 60A.172 and shall restore any authority reduced or restricted under section 60A.172 from January 1, 1987, until the day following final enactment of this act.

History: 1987 c 288 s 2

60A.174 SEVERABILITY.

If section 60A.173 is determined by a final, nonappealable order of any Minnesota or federal court of competent jurisdiction to be invalid or unconstitutional, section 60A.172 is effective the day following final enactment.

History: 1987 c 288 s 3

60A.196 DEFINITIONS.

Unless the context otherwise requires, the following terms have the meanings given them for the purposes of sections 60A.195 to 60A.209:

(a) "Surplus lines insurance" means insurance placed with an insurer permitted to transact the business of insurance in this state only pursuant to sections 60A.195 to 60A.209.

(b) "Eligible surplus lines insurer" means an insurer recognized as eligible to write insurance business under sections 60A.195 to 60A.209 but not licensed by any other Minnesota law to transact the business of insurance.

(c) "Ineligible surplus lines insurer" means an insurer not recognized as an eligible surplus lines insurer pursuant to sections 60A.195 to 60A.209 and not licensed by any other Minnesota law to transact the business of insurance. "Ineligible surplus lines insurer" includes a risk retention group as defined under the Liability Risk Retention Act, Public Law Number 99-563.

(d) "Surplus lines licensee" or "licensee" means a person licensed under sections 60A.195 to 60A.209 to place insurance with an eligible or ineligible surplus lines insurer.

(e) "Association" means an association registered under section 60A.208.

(f) "Alien insurer" means any insurer which is incorporated or otherwise organized outside of the United States.

(g) "Insurance laws" means chapters 60 to 79 inclusive.

History: 1987 c 337 s 11

60A.198 TRANSACTION OF SURPLUS LINES INSURANCE.

[For text of subs 1 and 2, see M.S.1986]

Subd. 3. **Procedure for obtaining license.** A person licensed as an agent in this state pursuant to other law may obtain a surplus lines license by doing the following:

(a) filing an application in the form and with the information the commissioner may reasonably require to determine the ability of the applicant to act in accordance with sections 60A.195 to 60A.209;

(b) maintaining an agent's license in this state;

(c) delivering to the commissioner a financial guarantee bond from a surety acceptable to the commissioner for the greater of the following:

(1) \$5,000; or

(2) the largest semiannual surplus lines premium tax liability incurred by the applicant in the immediately preceding five years; and

(d) agreeing to file with the commissioner of revenue no later than February 15 and August 15 annually, a sworn statement of the charges for insurance procured or placed and the amounts returned on the insurance canceled under the license for the preceding six-month period ending December 31 and June 30 respectively, and at the time of the filing of this statement, paying the commissioner a tax on premiums equal to three percent of the total written premiums less cancellations; and

(e) annually paying a fee as prescribed by section 60A.14, subdivision 1, paragraph (c), clause (11).

[For text of subs 4 and 5, see M.S.1986]

History: 1987 c 337 s 12

60A.199 EXAMINATIONS.

Subdivision 1. **Examination of books and records.** If the commissioner considers it necessary, the commissioner may examine the books and records of a surplus lines licensee to determine whether the licensee is conducting business in accordance with sections 60A.195 to 60A.209. For the purposes of facilitating examinations, the licensee shall allow the commissioner free access at reasonable times to all of the licensee's books and records relating to the transactions to which sections 60A.195 to 60A.209 apply. If an examination is conducted, the cost of the examination shall be paid by the surplus line agent or agency.

Subd. 2. **Examination of returns; assessment; refunds.** The commissioner of revenue shall, as soon as practicable after a return required by section 60A.198 is filed, examine it and make any investigation or examination of the licensee's records and accounts that the commissioner deems necessary for determining the correctness of the return. The tax computed by the commissioner on the basis of the examination and investigation is the tax to be paid by the licensee. If the tax found due is greater than the amount reported due on the licensee's return, the commissioner shall assess a tax in the amount of the excess and the whole amount of the excess shall be paid to the commissioner within 60 days after notice of the amount and demand for its payment is mailed to the licensee by the commissioner. If the amount of the tax found due by the commissioner is less than that reported due on the licensee's return, the excess shall be refunded to the licensee in the manner provided by this section. No refund shall be made except as provided in this section after the expiration of 3-1/2 years after the filing of the return.

If the commissioner examines returns of a licensee for more than one year, the commissioner 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 this section shall be in the form the commissioner determines, including a statement, and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the licensee at the address given on the return. If the address is not given, then they will be sent to the last known address.

At the request of the commissioner of revenue, the commissioner of commerce may examine and investigate the returns under section 60A.198 that the commissioner of revenue designates. The commissioner of commerce shall report to the commissioner of revenue the results of the examination in the manner required by the commissioner of revenue.

Subd. 3. Failure to file; false or fraudulent return. If any licensee required by section 60A.198 to file any return fails to do so within the time prescribed or makes, willfully or otherwise, an incorrect, false, or fraudulent return, the licensee must, on the written demand of the commissioner of revenue, file the return, or corrected return, within 60 days after the mailing of the written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof. If the licensee fails within that time to file the return, or corrected return, the commissioner shall make a return, or corrected return, from personal knowledge and from the information obtainable through testimony, or otherwise, and assess a tax on the basis thereof. The tax assessed, less any payments theretofore made on account of the tax for the taxable year covered by the return, must be paid within 60 days after the commissioner has mailed to the licensee a written notice of the amount thereof and demand for payment. Any return or assessment made by the commissioner on account of the failure of the licensee to make a return, or a corrected return, is prima facie correct and valid, and the licensee has the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

[For text of subd 4, see M.S.1986]

Subd. 5. Intent to evade tax; penalty. If any licensee with intent to evade the tax imposed by this chapter, fails to file any return required by this chapter or with such intent files a false or fraudulent return there shall also be imposed on it a penalty as provided in section 290.53, subdivision 3.

[For text of subd 6, see M.S.1986]

Subd. 7. Collection of tax. The tax required to be paid by section 60A.198 may be collected in any ordinary action at law by the commissioner of revenue against the licensee. In any action commenced pursuant to this section, upon the filing of an affidavit of default, the court administrator 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. 8. Refund procedure; time limit; appropriation. A licensee 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 licensee. 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, shall make written findings thereon denying or allowing the claim in whole or in part, and shall mail a notice thereof to the licensee at the address stated upon the return. If the claim is

allowed in whole or in part, the commissioner shall issue a certificate for a refund of the excess paid by the licensee, 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 licensee. 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.

Subd. 9. 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 licensee in the manner prescribed in this section. An appeal from this order may be taken to the Minnesota tax court in the manner prescribed in section 271.06, or the licensee 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 which lies the county of its principal place of business, or in the district court for Ramsey county. The action in the district court shall be commenced within 18 months following the mailing of the order of denial to the licensee. If a claim for refund is filed by a licensee and no order of denial is issued within six months of the filing, the licensee 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.

Subd. 10. Consent to extend time. If the commissioner and the licensee have, within the periods prescribed by this section, 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, is the period within which the commissioner and the licensee 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.

Subd. 11. Overpayment; refunds. If the amount determined to be an overpayment exceeds the taxes imposed by section 60A.198, the amount of 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 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 \$10 if the licensee so requests.

History: 1987 c 268 art 2 s 2-10

60A.206 QUALIFICATION AS ELIGIBLE SURPLUS LINES INSURER.

[For text of subd 1, see M.S.1986]

Subd. 2. Application for recognition. An insurer not otherwise licensed to engage in the business of insurance in Minnesota may apply for recognition as an eligible surplus lines insurer by filing an application in the form and with the information as reasonably required by the commissioner regarding the insurer's financial stability, reputation, integrity and operating plans, accompanied by a license fee of \$500. The commissioner may delegate to an association the power to process and make recommendations on applications for recognition as an eligible surplus lines insurer. Notwithstanding delegation by the commissioner, an applicant may file an application directly with the commissioner.

[For text of subs 3 to 7, see M.S.1986]

History: 1987 c 358 s 95

60A.209 INSURANCE PROCURED FROM INELIGIBLE INSURERS.

Subdivision 1. Authorization; regulation. A resident of this state may obtain insurance from an ineligible surplus lines insurer in this state through a surplus lines licensee. The licensee shall first attempt to place the insurance with a licensed insurer, or if that is not possible, with an eligible surplus lines insurer. If coverage is not

obtainable from a licensed insurer or an eligible surplus lines insurer, the licensee shall certify to the commissioner, on a form prescribed by the commissioner, that these attempts were made. Upon obtaining coverage from an ineligible surplus lines insurer, the licensee shall:

(a) Have printed, typed, or stamped in red ink upon the face of the policy in not less than 10-point type the following notice: "THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THIS INSURANCE IS PLACED WITH AN INSURER THAT IS NOT LICENSED BY THE STATE NOR RECOGNIZED BY THE COMMISSIONER OF COMMERCE AS AN ELIGIBLE SURPLUS LINES INSURER. IN CASE OF ANY DISPUTE RELATIVE TO THE TERMS OR CONDITIONS OF THE POLICY OR THE PRACTICES OF THE INSURER, THE COMMISSIONER OF COMMERCE WILL NOT BE ABLE TO ASSIST IN THE DISPUTE. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED." The notice may not be covered or concealed in any manner; and

(b) Collect from the insured appropriate premium taxes and report the transaction to the commissioner of revenue on a form prescribed by the commissioner. If the insured fails to pay the taxes when due, the insured shall be subject to a civil fine of not more than \$3,000, plus accrued interest from the inception of the insurance.

[For text of subd 2, see M.S.1986]

Subd. 3. Duty to report. Each insured in this state who procures, causes to be procured, or continues or renews insurance with an ineligible surplus lines insurer or any self-insurer in this state who procures or continues excess of loss, catastrophe, or other insurance upon a subject of insurance resident, located, or to be performed within this state, other than insurance procured pursuant to section 60A.201 or subdivision 1 shall file a written report regarding the insurance with the commissioner of revenue on forms prescribed by the commissioner of revenue and furnished to the insured upon request. The report shall be filed within 30 days after the date the insurance was procured, continued, or renewed and shall be accompanied by the tax on the premiums of two percent. The report shall show all of the following:

- (a) The name and address of the insured;
- (b) The name and address of the insurer;
- (c) The subject of the insurance;
- (d) A general description of the coverage;
- (e) The amount of premium currently charged for the insurance; and
- (f) Any additional pertinent information reasonably requested by the commissioner of revenue.

[For text of subs 4 to 6, see M.S.1986]

History: 1987 c 268 art 2 s 11,12

60A.2095 CONSTRUCTION.

Nothing in sections 60A.195 to 60A.209 shall be construed to permit the state to impose requirements beyond those granted by the Liability Risk Retention Act, Public Law Number 99-563.

History: 1987 c 337 s 13

60A.23 MISCELLANEOUS.

[For text of subs 1 to 6, see M.S.1986]

Subd. 7. Licenses required for employers making deductions from wages for certain purposes. (1) **Requirements.** No employer shall make deductions from the wages of 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 the employer first receives from the commissioner of commerce a license for the benefit plan the employer operates or proposes to operate. The 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 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 the commissioner, before granting a renewal. The fee for a license is \$250 and for filing the annual statement \$40. Any fees received by the commissioner pursuant to this subdivision shall be paid into the general fund. Before granting a license the commissioner of commerce shall submit the proposed plan to the chair of the workers' compensation court of appeals in order that the chair may determine whether the benefits are in conjunction with the benefits under the workers' compensation act.

(2) **Exceptions.** The requirements of clause (1) 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 an employee in violation of clause (1) shall be guilty of a misdemeanor.

Subd. 8. Self-insurance or insurance plan administrators who are vendors of risk management services. (1) **Scope.** This subdivision applies to any vendor of risk management services and to any entity which administers, for compensation, a self-insurance or insurance plan. This subdivision does not apply (a) to an insurance company authorized to transact insurance in this state, as defined by section 60A.06, subdivision 1, clauses (4) and (5); (b) to a service plan corporation, as defined by section 62C.02, subdivision 6; (c) to a health maintenance organization, as defined by section 62D.02, subdivision 4; (d) to an employer directly operating a self-insurance plan for its employees' benefits; or (e) to an entity which administers a program of health benefits established pursuant to a collective bargaining agreement between an employer, or group or association of employers, and a union or unions.

(2) **Definitions.** For purposes of this subdivision the following terms have the meanings given them.

(a) "Administering a self-insurance or insurance plan" means (i) processing, reviewing or paying claims, (ii) establishing or operating funds and accounts, or (iii) otherwise providing necessary administrative services in connection with the operation of a self-insurance or insurance plan.

(b) "Employer" means an employer, as defined by section 62E.02, subdivision 2.

(c) "Entity" means any association, corporation, partnership, sole proprietorship, trust, or other business entity engaged in or transacting business in this state.

(d) "Self-insurance or insurance plan" means a plan providing life, medical or hospital care, accident, sickness or disability insurance, as an employee fringe benefit, or a plan providing liability coverage for any other risk or hazard, which is or is not directly insured or provided by a licensed insurer, service plan corporation, or health maintenance organization.

(e) "Vendor of risk management services" means an entity providing for compensation actuarial, financial management, accounting, legal or other services for the purpose of designing and establishing a self-insurance or insurance plan for an employer.

(3) **License.** No vendor of risk management services or entity administering a self-insurance or insurance plan may transact this business in this state unless it is licensed to do so by the commissioner. An applicant for a license shall state in writing the type of activities it seeks authorization to engage in and the type of services it seeks authorization to provide. The license may be granted only when the commissioner is satisfied that the entity possesses the necessary organization, background, expertise,

and financial integrity to supply the services sought to be offered. The commissioner may issue a license subject to restrictions or limitations upon the authorization, including the type of services which may be supplied or the activities which may be engaged in. The license fee is \$100. All licenses are for a period of two years.

(4) **Regulatory restrictions; powers of the commissioner.** To assure that self-insurance or insurance plans are financially solvent, are administered in a fair and equitable fashion, and are processing claims and paying benefits in a prompt, fair, and honest manner, vendors of risk management services and entities administering insurance or self-insurance plans are subject to the supervision and examination by the commissioner. Vendors of risk management services, entities administering insurance or self-insurance plans, and insurance or self-insurance plans established or operated by them are subject to the trade practice requirements of sections 72A.19 to 72A.30.

(5) **Rulemaking authority.** To carry out the purposes of this subdivision, the commissioner may adopt rules, including emergency rules, pursuant to sections 14.01 to 14.69. These rules may:

(a) establish reporting requirements for administrators of insurance or self-insurance plans;

(b) establish standards and guidelines to assure the adequacy of financing, reinsuring, and administration of insurance or self-insurance plans;

(c) establish bonding requirements or other provisions assuring the financial integrity of entities administering insurance or self-insurance plans; or

(d) establish other reasonable requirements to further the purposes of this subdivision.

History: 1987 c 337 s 14; 1987 c 358 s 96

60A.29 NONPROFIT RISK INDEMNIFICATION TRUST ACT.

[For text of subd 1, see M.S.1986]

Subd. 2. **Purpose.** The purpose of this section is to authorize the establishment of trust funds for the purpose of indemnifying nonprofit beneficiary organizations and their officers, directors, and agents for financial loss due to the imposition of legal liability or for damage or destruction of property, and to regulate the operation of trust funds established under this section.

[For text of subds 3 and 4, see M.S.1986]

Subd. 5. **Ineligible risks.** No trust fund established under this section shall indemnify any beneficiary for liabilities incurred under the workers' compensation act, or for benefits provided to employees pursuant to any medical, dental, life, or disability income protection plan.

[For text of subds 6 to 15, see M.S.1986]

Subd. 16. **Reinsurance.** Authorized trust funds may insure or reinsure their obligations and liabilities with:

(1) insurance companies authorized to do business in Minnesota, pursuant to section 60A.06;

(2) insurance companies similarly authorized in any other state of the United States;

(3) insurance companies not authorized in Minnesota or any other state if the unauthorized insurance company establishes reinsurance security in favor of the ceding trust fund conforming to the general rules for allowance of reinsurance credits stated in the Financial Condition Examiners Handbook adopted by the National Association of Insurance Commissioners; or

(4) other trust funds organized under this section or under similar laws of any other state if the reinsuring trust fund establishes reinsurance security as specified in clause (3) in favor of the ceding trust fund.

[For text of subs 17 to 21, see M.S.1986]

Subd. 22. **Foreign trust funds.** A trust fund organized and existing under the laws of another state for the sole purpose of indemnifying nonprofit beneficiary organizations and their officers, directors, and agents for financial loss due to the imposition of legal liability or for damage or destruction of property, as provided in subdivisions 2 and 4, may apply to the commissioner for authority to operate within this state, provided that:

(1) the trust fund has been continuously in operation for a period of not less than five years prior to the date it applies for authorization under this subdivision, during which period it must have issued only nonassessable indemnification agreements to its beneficiaries, and during each of those years the trust fund received not less than \$1,000,000 in contributions from beneficiaries for protections afforded by the trust fund;

(2) the trust fund has been authorized by and is subject to regulation and examination by the department of insurance of its domiciliary state;

(3) the trust fund must file with the commissioner its trust agreement, bylaws or plan of operation, schedule of benefits, forms of indemnification agreements, and contribution schedules applicable to beneficiaries in this state;

(4) the trust fund must be governed by a board of not fewer than five trustees, all of whom must be elected by the beneficiaries of the trust fund, and none of whom may receive compensation for service as a trustee;

(5) the trust fund has, as of the last day of the calendar year immediately prior to its application for authority, a net fund balance surplus of not less than \$1,000,000, as evidenced by its financial statements certified by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied; and

(6) the trust fund must, upon and at all times after authorization by the commissioner, maintain a registered office within this state.

Subd. 23. **Standards for authorization.** Within 60 days after receipt of the documents specified under subdivision 22 and supporting evidence which establishes compliance with the standards set forth under that subdivision, the commissioner shall grant to the trust fund a certificate of authority to conduct operations in this state. The operations in this state are subject to the limitations and standards set forth in subdivisions 4 to 22. In the event an authorized foreign trust fund violates one of those subdivisions or the rules of the commissioner applicable to foreign trust funds, the commissioner may suspend or revoke the certificate of authority.

Subd. 24. **Rules.** The commissioner may adopt rules to enforce and administer requirements of subdivisions 22 and 23.

History: 1987 c 337 s 15-20

60A.30 RENEWAL OF INSURANCE POLICY WITH ALTERED RATES.

If an insurance company licensed to do business in this state offers or purports to offer to renew any commercial liability and/or property insurance policy at less favorable terms as to the dollar amount of coverage or deductibles, higher rates, and/or higher rating plan, the new terms, the new rates and/or rating plan may take effect on the renewal date of the policy if the insurer has sent to the policyholder notice of the new terms, new rates and/or rating plan at least 60 days prior to the expiration date. If the insurer has not so notified the policyholder, the policyholder may elect to cancel the renewal policy within the 60-day period after receipt of the notice. Earned premium for the period of coverage, if any, shall be calculated pro rata upon the prior rate. This subdivision does not apply to ocean marine insurance, accident and health insurance, and reinsurance.

This section does not apply if the change relates to guide "a" rates or excess rates also known as "consent to rates."

History: 1987 c 337 s 21

60A.31 WORKER'S COMPENSATION INSURANCE.

In addition to the requirements of Minnesota Statutes 1984, section 176.185, subdivision 1, a policy of insurance issued to cover the liability to pay compensation under Minnesota Statutes 1984, chapter 176, shall comply with sections 60A.30 and 60A.35 to 60A.38.

History: 1987 c 337 s 22

CANCELLATION AND RENEWAL**60A.35 SCOPE.**

Except as specifically limited in section 60A.30, sections 60A.35 to 60A.38 apply to all commercial liability and/or property insurance policies issued by companies licensed to do business in this state except ocean marine insurance, accident and health insurance, excess insurance, surplus lines insurance, and reinsurance.

History: 1987 c 337 s 23

60A.36 MIDTERM CANCELLATION.

Subdivision 1. **Reason for cancellation.** No insurer may cancel a policy of commercial liability and/or property insurance during the term of the policy, except for one or more of the following reasons:

- (1) nonpayment of premium;
- (2) misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or in pursuing a claim under the policy;
- (3) actions by the insured that have substantially increased or substantially changed the risk insured;
- (4) refusal of the insured to eliminate known conditions that increase the potential for loss after notification by the insurer that the condition must be removed;
- (5) substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk in writing the contract;
- (6) loss of reinsurance by the insurer which provided coverage to the insurer for a significant amount of the underlying risk insured. A notice of cancellation under this clause shall advise the policyholder that the policyholder has ten days from the date of receipt of the notice to appeal the cancellation to the commissioner of commerce and that the commissioner will render a decision as to whether the cancellation is justified because of the loss of reinsurance within five business days after receipt of the appeal;
- (7) a determination by the commissioner that the continuation of the policy could place the insurer in violation of the insurance laws of this state; or
- (8) nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing the insurance. This provision for cancellation for failure to pay dues does not apply to persons who are retired at 62 years of age or older or who are disabled according to social security standards.

Subd. 2. **Notice.** Cancellation under subdivision 1, clauses (2) to (8), shall not be effective before 60 days after notice to the policyholder. The notice of cancellation shall contain a specific reason for cancellation as provided in subdivision 1.

A policy shall not be canceled for nonpayment of premium pursuant to subdivision 1, clause (1), unless the insurer, at least ten days before the effective cancellation date, has given notice to the policyholder of the amount of premium due and the due date. The notice shall state the effect of nonpayment by the due date. No cancellation for nonpayment of premium shall be effective if payment of the amount due is made before the effective date in the notice.

Subd. 3. **New policies.** Subdivisions 1 and 2 do not apply to any insurance policy that has not been previously renewed if the policy has been in effect less than 90 days

at the time the notice of cancellation is mailed or delivered. No cancellation under this subdivision is effective until at least ten days after the written notice to the policyholder.

Subd. 4. **Longer term policies.** A policy may be issued for a term longer than one year or for an indefinite term with a clause providing for cancellation by the insurer for the reasons stated in subdivision 1 by giving notice as required by subdivision 2 at least 60 days before any anniversary date.

History: 1987 c 337 s 24

60A.37 NONRENEWAL.

Subdivision 1. **Notice required.** At least 60 days before the date of expiration provided in the policy, a notice of intention not to renew the policy beyond the agreed expiration date must be made to the policyholder by the insurer. If the notice is not given at least 60 days before the date of expiration provided in the policy, the policy shall continue in force until 60 days after a notice of intent not to renew is received by the policyholder.

Subd. 2. **Exceptions.** This section does not apply if the policyholder has insured elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal.

History: 1987 c 337 s 25

60A.38 INTERPRETATION AND PENALTIES.

Subdivision 1. **Sections not exclusive.** Sections 60A.35 to 60A.38 are not exclusive, and the commissioner may also consider other provisions of Minnesota law to be applicable to the circumstances or situations addressed by sections 60A.35 to 60A.38. The rights provided by sections 60A.35 to 60A.38 are in addition to and do not prejudice any other rights the policyholder may have at common law, under statute, or rules.

Subd. 2. **Penalties.** A violation of any provisions of sections 60A.35 to 60A.38 shall be deemed to be an unfair trade practice in the business of insurance and shall subject the violator to the penalties provided by sections 72A.17 to 72A.32 in addition to any other penalty provided by law.

Subd. 3. **Notices required.** All notices required by sections 60A.35 to 60A.38 shall only be made by first class mail addressed to the policyholder's last known address or by delivery to the policyholder's last known address. Notice by first class mail is effective upon deposit in the United States mail. In addition to giving notice to the policyholder, the insurer must also give notice to the agent of record, if any, in the manner specified for the policyholder.

History: 1987 c 337 s 26