

CHAPTER 60C

MINNESOTA INSURANCE GUARANTY
ASSOCIATION ACT

60C.06 Assessments.
60C.08 Board of directors.

60C.09 Covered claims.
60C.12 Appeal and review.

60C.06 ASSESSMENTS.

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

Subd. 5. **Surcharge.** (a) The plan of operation adopted pursuant to section 60C.07 must require each member insurer to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this chapter applies.

(b) The amount of any surcharge must be separately stated on either a billing or policy declaration sent to an insured. The association shall determine the rate of the surcharge and the collection period for each category and these are mandatory for all member insurers of the association who write business in those categories. The amount of the surcharge determined under this section is included in the insurance company's premiums for purposes of the gross premiums tax imposed under section 60A.15.

(c) The plan of operation may permit a member insurer to omit collection of the surcharge from its insured when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this section shall relieve the member insurer of its obligation to recoup the amount of the surcharge otherwise collectible.

History: 1987 c 268 art 2 s 13

60C.08 BOARD OF DIRECTORS.

Subdivision 1. The board of directors of the association shall consist of nine persons. Two of the directors shall be public members and seven shall be insurer members. The public members shall be appointed by the commissioner. Public members may include licensed insurance agents. The insurer members of the board shall be selected by association members subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments. The term of appointment for all members is two years.

[For text of subds 2 and 3, see M.S.1986]

History: 1987 c 337 s 31

60C.09 COVERED CLAIMS.

Subdivision 1. **Definition.** A covered claim is any unpaid claim, including one for unearned premium, which:

(a) (1) Arises out of and is within the coverage of an insurance policy issued by a member insurer if the insurer becomes an insolvent insurer after April 30, 1979; or

(2) Would be within the coverage of an extended reporting endorsement to a claims-made insurance policy if insolvency had not prevented the member insurer from fulfilling its obligation to issue the endorsement, if:

(i) the claims-made policy contained a provision affording the insured the right to purchase a reporting endorsement;

(ii) coverage will be no greater than if a reporting endorsement had been issued;

(iii) the insured has not purchased other insurance which applies to the claim; and

(iv) the insured's deductible under the policy is increased by an amount equal to

the premium for the reporting endorsement, as provided in the insured's claims-made policy, or if not so provided, then as established by a rate service organization.

(b) Arises out of a class of business which is not excepted from the scope of Laws 1971, chapter 145, by section 60C.02; and

(c) Is made by:

(i) A policyholder, or an insured beneficiary under a policy, who, at the time of the insured event, was a resident of this state; or

(ii) A person designated in the policy as having an insurable interest in or related to property situated in this state at the time of the insured event; or

(iii) An obligee or creditor under any surety bond, who, at the time of default by the principal debtor or obligor, was a resident of this state; or

(iv) A third party claimant under a liability policy or surety bond, if: (a) the insured or the third party claimant was a resident of this state at the time of the insured event; (b) the claim is for bodily or personal injuries suffered in this state by a person who when injured was a resident of this state; or (c) the claim is for damages to real property situated in this state at the time of damage; or

(v) A direct or indirect assignee of a person who except for the assignment might have claimed under (i), (ii) or (iii).

For purposes of paragraph (c), item (i), unit owners of condominiums, townhouses, or cooperatives are considered as having an insurable interest.

A covered claim also includes any unpaid claim which arises or exists within 30 days after the time of entry of an order of liquidation with a finding of insolvency by a court of competent jurisdiction unless prior thereto the insured replaces the policy or causes its cancellation or the policy expires on its expiration date.

Subd. 2. Limitation of amount. Payment of a covered claim, except a claim for unearned premium by any single claimant, whether upon a single policy or multiple policies of insurance, is limited to the amount by which the allowance on any claim exceeds \$100 and is less than \$300,000. In the case of claim for unearned premium, the entire claim up to \$300,000 shall be allowed. The limitation on the amount of payment for a covered claim does not apply to claims for workers' compensation insurance. In no event is the association obligated to the policyholder or claimant in an amount in excess of the obligation of the insurer under the policy from which the claim arises.

History: 1987 c 337 s 32

60C.12 APPEAL AND REVIEW.

Subdivision 1. Appeal. A claimant whose claim has been declared to be not covered or reduced by the board under section 60C.10 may appeal to the board within 30 days after the claimant has been notified of the board's decision and of the rights of the claimant under this section.

Subd. 2. Review. Decisions of the board under subdivision 1 are subject to appeal to the commissioner of commerce who may overturn, affirm, or modify the board's actions or take other action the commissioner considers appropriate.

The appeal to the commissioner must be in the manner provided in chapter 14.

Subd. 3. Judicial review. A final action or order of the commissioner under this subdivision is subject to judicial review in the manner provided by chapter 14. In lieu of the appeal to the commissioner under subdivision 2, a claimant may seek judicial review of the board's actions.

History: 1987 c 337 s 33