

CHAPTER 60A

DEPARTMENT OF COMMERCE; INSURANCE

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60A.02 DEFINITIONS.

[For text of subds 1 and 2, see M.S.1988]

Subd. 2a. **Continued.** An insurance policy that is issued for a term in excess of one year or that has no specified term or that is designated as being continuous is "continued" each year on the anniversary date of the issuance of the policy.

[For text of subds 3 to 18, see M.S.1988]

History: 1989 c 260 s 1

60A.06 KINDS OF INSURANCE PERMITTED.

Subdivision 1. **Statutory lines.** Insurance corporations may be authorized to transact in any state or territory in the United States, in the Dominion of Canada, and in foreign countries, when specified in their charters or certificates of incorporation, either as originally granted or as thereafter amended, any of the following kinds of business, upon the stock plan, or upon the mutual plan when the formation of such mutual companies is otherwise authorized by law; and business trusts as authorized by law of this state shall only be authorized to transact in this state the following kind of business hereinafter specified in clause (7) hereof when specified in their "declaration of trust":

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

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

(b) To insure all personal property floater risks;

(3) To insure against any loss from either direct or indirect damage to any property or interest of the assured or of another, resulting from the explosion of or injury to (a) any boiler, heater or other fired pressure vessel; (b) any unfired pressure vessel; (c) pipes

or containers connected with any of said boilers or vessels; (d) any engine, turbine, compressor, pump or wheel; (e) any apparatus generating, transmitting or using electricity; (f) any other machinery or apparatus connected with or operated by any of the previously named boilers, vessels or machines; and including the incidental power to make inspections of and to issue certificates of inspection upon, any such boilers, apparatus, and machinery, whether insured or otherwise;

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

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

(b) To insure against the legal liability, whether imposed by common law or by statute or assumed by contract, of employers for the death or disablement of, or injury to, employees;

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

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

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

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

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

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

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

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

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

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

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

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

(15) To insure against attorneys fees, court costs, witness fees and incidental expenses incurred in connection with the use of the professional services of attorneys at law.

[For text of subd 2, see M.S.1988]

Subd. 3. **Limitation on combination policies.** (a) Unless specifically authorized by subdivision 1, clause (4), it is unlawful to combine in one policy coverage permitted by subdivision 1, clauses (4) and (5)(a). This subdivision does not prohibit the simultaneous sale of these products, but the sale must involve two separate and distinct policies.

(b) This subdivision does not apply to group policies.

(c) This subdivision does not apply to policies permitted by subdivision 1, clause (4), that contain benefits providing acceleration of life, endowment, or annuity benefits in advance of the time they would otherwise be payable.

History: 1989 c 125 s 1,2

60A.08 CONTRACTS OF INSURANCE.

[For text of subs 1 to 11, see M.S.1988]

Subd. 12. **Rented vehicles.** All commercial automobile liability policies must provide coverage for rented vehicles as required in chapter 65B.

This coverage can be excess over any and all specific motor vehicle coverage that is applicable.

Subd. 13. **Reduction of limits by costs of defense prohibited.** (a) No insurer shall issue or renew a policy of liability insurance in this state that reduces the limits of liability stated in the policy by the costs of legal defense.

(b) This subdivision does not apply to:

(1) professional liability insurance with limits of liability greater than \$100,000, including directors' and officers' and errors and omissions liability insurance;

(2) environmental impairment liability insurance;

(3) insurance policies issued to large commercial risks; or

(4) coverages that the commissioner determines to be appropriate which will be published in the manner prescribed for surplus lines insurance in section 60A.201, subdivision 4.

(c) For purposes of this subdivision, "large commercial risks" means an insured whose gross annual revenues in the fiscal year preceding issuance of the policy were at least \$10,000,000.

History: 1989 c 260 s 2,3

60A.09 LIMITS OF RISK; REINSURANCE.

Subdivision 1. **Maximum risk.** No company other than a company authorized to transact the kind of business specified in section 60A.06, subdivision 1, clause (7), shall insure or reinsure in a single risk a larger sum than one-tenth of its net assets, and no company authorized to transact the kind of business specified in section 60A.06, subdivision 1, clause (7), shall insure or reinsure in a single risk a larger sum than two-thirds of its net assets; provided, that in the case of a company with net assets of more than \$50,000, any portion of the risk which has been reinsured, as authorized by the laws of this state, shall be deducted before determining the limitation of risk prescribed by this subdivision; and, provided, that a mutual insurance company organized under clause (2)(a) of section 66A.08, subdivision 2, may insure in a single risk, consisting of a creamery or a cheese factory, a sum equal to one percent of its insurance in force.

[For text of subs 2 to 7, see M.S.1988]

History: 1989 c 260 s 4

60A.151 [Repealed, 1989 c 324 s 29]

60A.17 AGENTS; SOLICITORS.

[For text of subds 1 to 6b, see M.S.1988]

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 as provided for in section 45.027, subdivision 6, 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 two years from the effective date of the revocation. Further, the commissioner shall, as a condition of relicensure, require the applicant to obtain a performance bond issued by an insurer authorized to transact business in this state in the amount of \$20,000 or a greater amount the commissioner considers appropriate for the protection of citizens of this state. The bond shall be filed with the commissioner, with the state of Minnesota as obligee, conditioned for the prompt payment to any aggrieved person entitled to payment of any amounts received by the licensee or to protect any aggrieved person from loss resulting from fraudulent, deceptive, dishonest, or other prohibited practices arising out of any transaction when the licensee was licensed or performed acts for which a license is required under this chapter. The bond shall remain operative for as long as that licensee is licensed. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this section. The bond required by this subdivision must provide coverage for all matters arising during the period of licensure.

(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 subds 6d to 19, see M.S.1988]

Subd. 20. Tax clearance certificate. (a) The commissioner may not issue or renew a license under this section if the commissioner of revenue notifies the commissioner and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The commissioner may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the commissioner. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) In lieu of the notice and hearing requirements of subdivisions 6c and 6d, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the office of administrative hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The commissioner shall require all licensees or applicants to provide their social security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the commissioner must provide to the commissioner of revenue a list of all licensees and applicants, including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year.

Subd. 21. Suitability of insurance. In recommending the purchase of any life, endowment, long-term care, annuity, life-endowment, or Medicare supplement insurance to a customer, an agent must have reasonable grounds for believing that the recommendation is suitable for the customer, and must make reasonable inquiries to determine suitability. The suitability of a recommended purchase of insurance will be determined by reference to the totality of the particular customer's circumstances, including, but not limited to, the customer's income, the customer's need for insurance, and the values, benefits, and costs of the customer's existing insurance program, if any, when compared to the values, benefits, and costs of the recommended policy or policies.

History: 1989 c 184 art 2 s 1; 1989 c 258 s 1,2; 1989 c 260 s 5

60A.1701 CONTINUING INSURANCE EDUCATION.

Subdivision 1. Definition. For the purposes of this section, "course" means a course, program of instruction, or seminar of continuing insurance education. A "professional designation examination" means a written, proctored, and graded exami-

nation the passage of which leads to a bona fide insurance or financial planning professional designation used by agents.

[For text of subds 2 to 4, see M.S.1988]

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.

(c) The advisory task force shall recommend the approval or disapproval of professional designation examinations that meet the criteria established by this section and the number of continuing education credit hours to be awarded for passage of the examination. In order to be approved, a professional designation examination must:

- (1) lead to a recognized insurance or financial planning professional designation used by agents; and
- (2) conclude with a written examination that is proctored and graded.

[For text of subd 6, see M.S.1988]

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

(b) The commissioner shall approve or disapprove professional designation examinations that are recommended for approval by the advisory task force. In order for an agent to receive full continuing education credit for a professional designation examination, the agent must pass the examination. An agent may not receive credit for classroom instruction preparing for the professional designation examination and also receive continuing education credit for passing the professional designation examination.

(c) 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 15 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 7-1/2 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.

Subd. 9. Waiver of requirements. (a) The commissioner may grant a waiver or an extension of time up to 90 days to complete the minimum education requirement to an individual upon a showing of good cause. It is the licensed person's responsibility to request a waiver or extension on a form prescribed by the commissioner. As of the day the licensed person properly files a request for a waiver or extension, the license remains in effect until the commissioner notifies the licensed person of the commissioner's decision. The commissioner may approve a waiver or extension subject to any reasonable conditions. The person's license remains in effect during the compliance period determined by the commissioner. If the licensed person fails to comply with any reasonable conditions imposed by the commissioner, the commissioner shall terminate the license. If the request for a waiver or extension is denied by the commissioner, the licensed person shall have 30 days within which to satisfy the minimum education requirement involved in the request for a waiver or extension. If the minimum education requirement is not satisfied within the compliance period, the commissioner shall terminate the person's license.

(b) Upon application on a form prescribed by the commissioner, the commissioner may grant a waiver of the minimum education requirement to a licensee who is no longer actively engaged in the solicitation and sale of insurance. A licensed person seeking a waiver from the requirements of this section may be required to submit information to the commissioner that substantiates the person's retirement or inactive status. A licensed person receiving a waiver from the commissioner may maintain and renew a license but may not solicit or sell new insurance business while this waiver is in effect. A licensee may, for a fee, continue to service an insurance policy for which the licensee is the agent of record, if the policy is in force at the time the waiver is granted. An insurer may not terminate a service contract or refuse to pay compensation because the waiver does not allow the licensee to solicit or sell new insurance.

For the purposes of receiving renewal commissions and other benefits or compensation from insurers, an agent receiving a waiver under this paragraph is considered to be the holder of a valid insurance agent license in this state.

[For text of subds 10 and 11, see M.S.1988]

History: 1989 c 231 s 1-5

60A.172 INSURANCE AGENCY CONTRACTS; CANCELLATION.

(a) An insurer may not cancel a written agreement with an agent or 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 80 percent or more of their gross annual insurance business for one company or any or all of its subsidiaries, and are not in the direct employ of the company.

History: 1989 c 170 s 1

60A.175 AGENT COMMISSIONS.

An insurer that cancels a written agreement with an agent under section 60A.171 or 60A.172 must pay to the agent terminated all commissions earned by that agent prior to or after termination.

History: 1989 c 170 s 2

60A.198 TRANSACTION OF SURPLUS LINES INSURANCE.*[For text of subds 1 and 2, see M.S.1988]*

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 (10).

[For text of subds 4 and 5, see M.S.1988]

History: 1989 c 260 s 6

60A.23 MISCELLANEOUS.*[For text of subds 1 to 6, see M.S.1988]*

Subd. 7. [Repealed, 1989 c 330 s 37]

*[For text of subd 8, see M.S.1988]***60A.41 SUBROGATION AGAINST INSUREDS PROHIBITED.**

(a) An insurance company or a company providing reinsurance for that insurance company for the coverage may not proceed against its insured in a subrogation action where the loss was caused by the nonintentional acts of the insured.

(b) An insurance company or a company providing reinsurance for the coverage may not subrogate itself to the rights of its insured to proceed against another person insured for the loss being subrogated by the same company to recover a loss caused by the nonintentional acts of that insured.

History: 1989 c 201 s 1