

## CHAPTER 61A

### LIFE INSURANCE

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#### 61A.072 POLICIES WITH ACCELERATED BENEFITS.

*[For text of subds 1 to 5, see M.S.2000]*

Subd. 6. **Accelerated benefits.** (a) "Accelerated benefits" covered under this section are benefits payable under the life insurance contract:

(1) to a policyholder or certificate holder, during the lifetime of the insured, in anticipation of death upon the occurrence of a specified life-threatening or catastrophic condition as defined by the policy or rider;

(2) that reduce the death benefit otherwise payable under the life insurance contract; and

(3) that are payable upon the occurrence of a single qualifying event that results in the payment of a benefit amount fixed at the time of acceleration.

(b) "Qualifying event" means one or more of the following:

(1) a medical condition that would result in a drastically limited life span as specified in the contract;

(2) a medical condition that has required or requires extraordinary medical intervention, such as, but not limited to, major organ transplant or continuous artificial life support without which the insured would die; or

(3) a condition that requires continuous confinement in an eligible institution as defined in the contract if the insured is expected to remain there for the rest of the insured's life.

**History:** 2001 c 215 s 8

#### 61A.276 FUNDING AGREEMENTS.

*[For text of subd 1, see M.S.2000]*

Subd. 2. **Issuance.** The funding agreements may be issued to: (1) individuals; or (2) persons authorized by a state or foreign country to engage in an insurance business or subsidiaries or affiliates of these persons; or (3) entities other than individuals and other than persons authorized to engage in an insurance business, and subsidiaries and affiliates of these persons, for the following purposes: (i) to fund benefits under any employee benefit plan as defined in the Employee Retirement Income Security Act of 1974, as now or hereafter amended, maintained in the United States or in a foreign country; (ii) to fund the activities of any organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1986, as amended through December 31, 1992, or of any similar organization in any foreign country; (iii) to fund any program of any state, foreign country or political subdivision thereof, or any agency or instrumentality thereof; (iv) to fund any agreement providing for periodic payments in satisfaction of a claim; or (v) to fund a program of an institution that has assets in excess of \$25,000,000. No funding agreement shall be issued in an amount less than \$1,000,000.

*[For text of subds 3 to 5, see M.S.2000]*

**History:** 2001 c 131 s 11

**61A.28 DOMESTIC COMPANIES, INVESTMENTS.**

*[For text of subs 1 to 3, see M.S.2000]*

Subd. 6. **Stocks, obligations, and other investments.** (a) Common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of a business entity organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof.

(b) Preferred stock of, or common or preferred stock guaranteed as to dividends by a business entity organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, under the following conditions: (1) No investment may be made under this paragraph in a stock upon which any dividend, current or cumulative, is in arrears; (2) the company may not invest in stocks under this paragraph and in common stocks under paragraph (a) if the investment causes the company's aggregate investments in the common or preferred stocks to exceed 25 percent of the company's total admitted assets, provided that no more than 20 percent of the company's admitted assets may be invested in common stocks under paragraph (a); and (3) the company may not invest in any preferred stock or common stock guaranteed as to dividends, which is rated in the four lowest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment causes the company's aggregate investment in the lower rated preferred or common stock guaranteed as to dividends to exceed five percent of its total admitted assets.

(c) Warrants, options, and rights to purchase stock if the stock, at the time of the acquisition of the warrant, option, or right to purchase, would qualify as an investment under paragraph (a) or (b), whichever is applicable. A company shall not invest in a warrant, option, or right to purchase stock if, upon purchase and immediate exercise thereof, the acquisition of the stock violates any of the concentration limitations contained in paragraphs (a) and (b).

(d) In addition to amounts that may be invested under subdivision 8 and without regard to the percentage limitation applicable to stocks, warrants, options, and rights to purchase, the securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the Investment Company Act of 1940 as from time to time amended. In addition, the company may transfer assets into one or more of its separate accounts for the purpose of establishing, or supporting its contractual obligations under, the accounts in accordance with the provisions of sections 61A.13 to 61A.21. A company may not invest in a security authorized under this paragraph if the investment causes the company's aggregate investments in the securities to exceed ten percent of its total admitted assets, except that for a health service plan corporation operating under chapter 62C, and for a health maintenance organization operating under chapter 62D, the company's aggregate investments may not exceed 20 percent of its total admitted assets. No more than five percent of the allowed investment by health service plan corporations or health maintenance organizations may be invested in funds that invest in assets not backed by the federal government. When investing in money market mutual funds, nonprofit health service plans regulated under chapter 62C, and health maintenance organizations regulated under chapter 62D, shall establish a trustee custodial account for the transfer of cash into the money market mutual fund.

(e) Investment grade obligations that are:

(1) bonds, obligations, notes, debentures, repurchase agreements, or other evidences of indebtedness of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof; and

(2) rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or are rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(f) Noninvestment grade obligations: A company may acquire noninvestment grade obligations as defined in subclause (i) (hereinafter noninvestment grade obligations) which meet the earnings test set forth in subclause (ii). A company may not acquire a noninvestment grade obligation if the acquisition will cause the company to exceed the limitations set forth in subclause (iii).

(i) A noninvestment grade obligation is an obligation of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, that is not rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or is not rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(ii) Noninvestment grade obligations authorized by this subdivision may be acquired by a company if the business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has had net earnings after the 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 of less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period; provided, however, that if a business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has undergone an acquisition, recapitalization, or reorganization within the immediately preceding 12 months, or will use the proceeds of the obligation for an acquisition, recapitalization, or reorganization, then such business entity shall also have, on a pro forma basis, for the next succeeding 12 months, net earnings averaging 1-1/4 times its average annual fixed charges applicable to such period after elimination of extraordinary nonrecurring items of income and expense and before taxes and fixed charges; no investment may be made under this section upon which any interest obligation is in default.

(iii) Limitation on aggregate interest in noninvestment grade obligations. A company may not invest in a noninvestment grade obligation if the investment will cause the company's aggregate investments in noninvestment grade obligations to exceed the applicable percentage of admitted assets set forth in the following table:

Effective Date	Percentage of Admitted Assets
January 1, 1992	20
January 1, 1993	17.5
January 1, 1994	15

Nothing in this paragraph limits the ability of a company to invest in noninvestment grade obligations as provided under subdivision 12.

(g) Obligations for the payment of money under the following conditions: (1) The obligation must be secured, either solely or in conjunction with other security, by an assignment of a lease or leases on property; real or personal; (2) the lease or leases must be nonterminable by the lessee or lessees upon foreclosure of any lien upon the leased property; (3) the rents payable under the lease or leases must be sufficient to amortize at least 90 percent of the obligation during the primary term of the lease; and (4) the lessee or lessees under the lease or leases, or a governmental entity or business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada, or any province thereof, that has assumed or guaranteed any lessee's performance thereunder, must be a governmental entity or business entity whose obligations would qualify as an investment under subdivision 2 or paragraph (c) or (f). A company may acquire leases assumed or guaranteed by a noninvestment grade lessee unless the value of the lease, when added to the other noninvestment grade obligations owned by the company, exceeds 15 percent of the company's admitted assets.

(h) A company may sell call options against stocks or other securities owned by the company and may purchase call options in a closing transaction against a call option

previously written by the company. In addition to the authority granted by paragraph (c), to the extent and on the terms and conditions the commissioner determines to be consistent with the purposes of this chapter, a company may purchase or sell other exchange-traded call options, and may sell or purchase exchange-traded put options.

(i) A company may not invest in a security or other obligation authorized under this subdivision if the investment, valued at cost at the date of purchase, causes the company's aggregate investment in any one business entity to exceed two percent of the company's admitted assets.

(j) For nonprofit health service plan corporations regulated under chapter 62C, and for health maintenance organizations regulated under chapter 62D, a company may invest in commercial paper rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization, or rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment, valued at cost at the date of purchase, does not cause the company's aggregate investment in any one business entity to exceed six percent of the company's admitted assets.

*[For text of subs 7 to 13, see M.S.2000]*

**Subd. 14. Replication transactions.** An insurer engaging in replication transactions shall include all replicated investment positions in calculating compliance with the limitations on investments applicable to the insurer. Replication transactions are permitted only under the authority of subdivision 12. For these purposes, "replication transaction" means a derivative transaction that is intended to replicate the performance of one or more assets that an insurer is authorized to acquire under applicable law. A derivative transaction that either is authorized by subdivision 6, 8, or 9a or section 61A.29, subdivision 2, paragraph (d), or is entered into as a hedging transaction shall not be considered a replication transaction. "Replicated investment position" means the statement value of the position reported under the heading "Replicated (Synthetic) Asset" on Schedule DB, Part F, of the annual statement of the insurer, or any successor provision.

**History:** 2001 c 131 s 12,13

## 61A.29 FOREIGN INVESTMENTS.

*[For text of subd 1, see M.S.2000]*

**Subd. 2. Authorized investments.** A company may invest in (i) foreign assets denominated in United States dollars; (ii) foreign assets denominated in foreign currency; and (iii) United States assets denominated in foreign currency. The investments may be made in any combination of the following:

(a) Obligations of sovereign governments and political subdivisions thereof and obligations issued or fully guaranteed by a supranational bank or organization, other than those described in section 61A.28, subdivision 2, paragraph (e), provided that the obligations are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States. For purposes of this section, "supranational bank" means a bank owned by a number of sovereign nations and engaging in international borrowing and lending.

(b) Obligations of a foreign business entity, provided that the obligation (i) is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization in the United States or by a similarly recognized statistical rating organization, as approved by the commissioner, in the country where the investment is made; or (ii) is rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(c) Stock or stock equivalents issued by a foreign entity if the stock or stock equivalents are regularly traded and subject to oversight by the government of the country in which the regular trading occurs.

(d) Financial transactions for the sole purpose of managing the foreign currency risk of investments made under this subdivision, provided that the financial transactions are entered into under a detailed plan maintained by the company. For purposes of this paragraph, "financial transactions" include, but are not limited to, the purchase or sale of currency swaps, forward agreements, and currency futures.

*[For text of subd 3, see M.S.2000]*

**History:** 2001 c 131 s 14

#### **61A.321 GUARANTY FUNDS.**

(a) A domestic mutual life insurance company may be formed with, or an existing domestic mutual life insurance company may establish, a guaranty fund divided into certificates of \$10 each, or multiples thereof, and this guaranty fund shall be invested in the same manner as is provided for the investment of capital stock of insurance companies.

(b) The certificate holders of the guaranty fund are entitled to an annual dividend of not more than ten percent on their respective certificates, if the net profits or unused premiums left after all losses, expenses, or liabilities then incurred, with reserves for reinsurance, are provided for, are sufficient to pay the annual dividend. If the dividends in any one year are less than ten percent, the difference may be made up in any subsequent year or years from the net profits. Approval of the commissioner must be obtained before accrual for or payment of the dividend, or any repayment of principal.

(c) The guaranty fund must be applied to the payment of losses and expenses when necessary, and, if the guaranty fund is impaired, the directors may make good the whole or any part of the impairment from future profits of the company, but no dividend shall be paid on guaranty fund certificates while the guaranty fund is impaired. The holder of the guaranty fund certificate is not liable for any more than the amount of the certificate which has not been paid in, and this amount must be plainly and legibly stated on the face of the certificate.

(d) Notwithstanding any other provision of law, each certificate holder of record is entitled to one vote in person or by proxy in any meeting of the members of the company for each \$10 investment in guaranty fund certificates.

(e) The guaranty fund may be reduced or retired by vote of the policyholders of the company and the assent of the commissioner, if the net assets of the company above its reinsurance reserve and all other claims and obligations and the amount of its guaranty fund certificates and interest on the certificates for two years last preceding and including the date of its last annual statement are not less than 50 percent of the premiums in force. Due notice of this proposed action on the part of the company shall be mailed to each policyholder of the company not less than 30 days before the meeting when the action may be taken.

(f) In domestic mutual life insurance companies with a guaranty fund, the certificate holders shall be entitled to choose and elect from among their own number or from among the policyholders at least one-half or more of the total number of directors.

(g) If any domestic mutual life insurance company with a guaranty fund ceases to do business, it shall not divide among its certificate holders any part of its assets or guaranty fund until all its debts and obligations have been paid or canceled.

(h) Foreign mutual life insurance companies having a guaranty fund shall not be required to make their certificate of guaranty fund conform to the provisions of this section, but when the certificates do not conform with this section, the amount of the guaranty fund shall be charged as a liability.

**History:** 2001 c 131 s 15