

(c) removal or elimination of public health or safety hazards from private property, excluding any structure included under the provisions of sections 463.15 to 463.26,

(d) installation or repair of water service lines, street sprinkling or other dust treatment of streets,

(e) the trimming and care of trees and the removal of unsound trees from any street,

(f) the treatment and removal of insect infested or diseased trees on private property, the repair of sidewalks and alleys, or

(g) the operation of a street lighting system, or

(h) the operation and maintenance of a fire protection system

as a special assessment against the property benefited. The council may by ordinance adopt regulations consistent with this section to make this authority effective, including, at the option of the council, provisions for placing primary responsibility upon the property owner or occupant to do the work himself (except in the case of street sprinkling or other dust treatment, alley repair, tree trimming, care, and removal or the operation of a street lighting system) upon notice before the work is undertaken, and for collection from the property owner or other person served of the charges when due before unpaid charges are made a special assessment.

#### Sec. 7. **EFFECTIVE DATE.**

This act is effective the day following final enactment.

Approved April 26, 1984

### CHAPTER 592 — H.F.No. 1678

*An act relating to commerce; clarifying identity between federal savings and loan associations and savings banks; clarifying annual statement filing requirements; providing for the suspension of authority of self-insurance entities or self-insurers; modifying certain existing fees and providing certain new fees; providing for the approval of certain life insurance policies by the commissioner; transferring certain duties of the commissioner of commerce to the commissioner of revenue; establishing certain taxation filing requirements; providing for agent license renewals; authorizing the issuance of orders to show cause relating to license revocations; clarifying continuing education reporting requirements; modifying certain insurance licensing dates; providing for the service of process on foreign companies and unauthorized insurers; removing the countersignature requirement for certain bid bonds and insurance policies; clarifying policy form filing requirements; describing certain requirements for enrollment in the comprehensive health insurance plan; increasing the agents*

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*referral fee under the comprehensive health insurance plan; providing for the use of health insurance claim forms; providing for the use of fire insurance binders; modifying the definitions of "motorcycle," "motor vehicle," "policy," and "utility vehicle" for purposes of automobile insurance regulation; increasing certain liability coverage on automobile insurance plan policies; providing for the cancellation or nonrenewal of a policy; defining "plan of reparation security"; clarifying certain ambiguous provisions in the No-Fault Automobile Insurance Act; requiring certain premium reports to be filed with the commissioner; prohibiting discrimination based on sex or marital status; modifying the expiration date of adjuster's licenses; providing for the appointment of the board of the compensation reinsurance association; clarifying the powers of the commissioner regarding audits of the compensation reinsurance association; making various technical changes; providing remedies; prescribing penalties; appropriating money; amending Minnesota Statutes 1982, sections 47.27, subdivision 4; 47.29; 47.31; 47.32; 47.49, subdivision 4; 60A.13, subdivision 6, and by adding a subdivision; 60A.15, subdivisions 1, 2, 2a, 6, 8, 9, 10, and by adding subdivisions; 60A.17, subdivisions 3, 5b, and by adding a subdivision; 60A.18, subdivision 3; 60A.19, subdivisions 4 and 8; 60A.199; 60A.21, subdivision 2; 60A.23, subdivision 5; 61A.02; 61A.03, by adding a subdivision; 62A.025; 62E.14, subdivision 1; 62E.15, subdivision 3; 65A.03; 65B.001, subdivision 4; 65B.06, subdivision 2; 65B.14, subdivisions 2 and 3; 65B.16; 65B.19; 65B.43, subdivisions 2, 13, and by adding a subdivision; 65B.55, subdivision 1; 67A.241, subdivision 2; 69.021, subdivisions 1, 2, 3, and by adding a subdivision; 69.58; 69.59; 72A.061, subdivision 2; 72A.07; 72A.20, by adding a subdivision; 72A.23, subdivision 1; 72B.04, subdivisions 7 and 10; 79.10; 79.39; 176.181, subdivision 2, and by adding a subdivision; 271.01, subdivision 5; 299F.21; 299F.22; 299F.23; 299F.24; 299F.26, subdivisions 1 and 2; 424.165, subdivision 1; and 574.32; Minnesota Statutes 1983 Supplement, sections 60A.05; 60A.14, subdivision 1; 60A.15, subdivision 12; 60A.17, subdivisions 1a, 1d, and 6c; 60A.1701, subdivisions 5, 10, and 11; 60A.198, subdivision 3; 65A.01, subdivision 3; 65B.17, subdivision 1; 69.011, subdivision 1; and 79.37; proposing new law coded in Minnesota Statutes, chapters 60A and 61A; repealing Minnesota Statutes 1982, sections 65B.15, subdivision 3; 65B.48, subdivision 8; and 69.031, subdivision 6.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 47.27, subdivision 4, is amended to read:

Subd. 4. "Federal savings and loan association" means an a savings association, savings and loan association or savings bank organized under that certain act of Congress known as The Home Owners Loan Act of 1933, and acts amendatory thereof.

Sec. 2. Minnesota Statutes 1982, section 47.29, is amended to read:

**47.29 SAVINGS BANKS MAY CONVERT INTO FEDERAL SAVINGS AND LOAN ASSOCIATIONS.**

Subdivision 1. Any savings bank organized and existing under and by virtue of the laws of this state, is hereby authorized and empowered, by a two-thirds vote of the entire board of trustees, at any regular or special meeting of said board duly called for that purpose to convert itself into federal savings and loan association whenever said conversion is authorized by any act of the

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Congress of the United States: Provided, that before any such conversion shall become final and complete, (a) the secretary of the savings bank shall cause 30 days written notice of such intended conversion (which notice, before mailing, shall be submitted to and approved by the commissioner of banks commerce) to be mailed, prepaid to each depositor, at their last known address, according to the records of the bank, and after such notice each depositor may, prior to the time the conversion becomes final and complete, on demand and without prior notice, withdraw the full amount of his deposit or such part thereof as he may request, and upon such withdrawal he shall receive interest to the date of withdrawal at the same rate last paid or credited by the bank, notwithstanding the provisions of any law, bylaws, rule or regulation to the contrary, and (b) that such conversion be approved in writing by the commissioner of banks commerce.

Subd. 2. At any time after the expiration of the 30 day period specified in subdivision 1, clause (a), (which fact shall be evidenced by the secretary of the savings bank filing an affidavit to that effect with the commissioner of banks commerce and the secretary of state of this state), upon filing a copy of the federal charter, certified by the issuing federal agency with the secretary of state of this state, the secretary of state shall record said charter and certify that fact thereon, whereupon the conversion shall be final and complete and the savings bank shall at that time cease to be a savings bank supervised by this state, and shall thereafter be a federal savings and loan association.

Sec. 3. Minnesota Statutes 1982, section 47.31, is amended to read:

**47.31 FEDERAL SAVINGS AND LOAN ASSOCIATION MAY CONVERT INTO SAVINGS BANK.**

When authorized by act of the Congress of the United States, any federal savings and loan association with its principal place of business in this state may convert itself into a savings bank pursuant to the laws of this state: Provided, (a) that the association complies with all requirements imposed for such conversion under the laws of the United States; (b) that the association complies with the requirements and procedure set forth in section 47.30, except that the procedure for obtaining original articles of incorporation of a savings bank shall be followed in lieu of the procedure for amending articles of incorporation and the 30 day period specified in section 47.30, subdivisions 4 and 5, shall begin on the day the organization meeting is held pursuant to section 300.025; and (c) that the commissioner of banks commerce approves such conversion in writing.

Sec. 4. Minnesota Statutes 1982, section 47.32, is amended to read:

**47.32 CONVERTING INSTITUTION DEEMED CONTINUANCE; TRANSFER OF PROPERTY AND RIGHTS.**

Upon the conversion of any savings bank into a savings, building and loan association or into a federal savings and loan association, and of a savings, building and loan association or federal savings and loan association into a

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savings bank, the corporate existence of the converting savings bank or association shall not terminate, and the resulting association or savings bank shall be a continuance of the converting savings bank or association; and all the property of the converting savings bank or association (including its rights) shall by operation of law vest in the resulting association or savings bank as of the time when the conversion becomes final and complete, and all of the obligations of the converting savings bank or association become those of the resulting association or savings bank. Actions and other judicial proceedings to which the converting savings bank or association is a party may be prosecuted and defended as if the conversion had not been made.

Sec. 5. Minnesota Statutes 1982, section 49.47, subdivision 4, is amended to read:

Subd. 4. **SAVINGS BANKS.** "Savings bank" means a savings bank on February 5, 1982 as defined in section 47.01.

Sec. 6. Minnesota Statutes 1983 Supplement, section 60A.05, is amended to read:

#### 60A.05 SUSPENSION OF AUTHORITY.

Subdivision 1. **COMPANIES.** If the commissioner believes, upon examination or other evidence, that a foreign or domestic insurance company is in an unsound condition or, if a life insurance company, that its actual funds are less than its liabilities, or that it is insolvent; or if a foreign or domestic insurance company has failed to comply with the law, or if it, its officers, or agents, refuse to submit to examination, or to perform any legal obligation in relation thereto, and he believes protection of the interests of policyholders, claimants, or the general public requires summary action, he may revoke or suspend all certificates of authority granted to it or its agents. He shall cause notification of his action to be published in a newspaper authorized to publish annual statements of insurance companies, and no new business shall thereafter be done by it, or its agents, in this state while the default or disability continues, nor until its authority to do business is restored by the commissioner. The revocation or suspension is effective ten days after notice to the company unless the ground for revocation or suspension relates only to the financial condition or soundness of the company or to a deficiency in its assets, in which case revocation and suspension is effective upon notice to the company. The notice shall specify the particulars of the supposed violation. The district court of any county, upon petition of the company, shall summarily hear and determine the question whether the ground for revocation or suspension exists. The court shall make any proper order or decree and enforce it by any appropriate process. If the order or decree is adverse to the petitioning company, an appeal may be taken as in other civil cases. In the case of appeal, the commissioner may issue his order revoking the right of the petitioning company to do business in this state until the final determination of the question. Neither this section nor any proceedings

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under it shall affect any criminal prosecutions or proceeding for the enforcement of any fine, penalty, or forfeiture.

Subd. 2. SELF-INSURANCE ENTITIES. The authority granted pursuant to chapter 62H and sections 65B.48, 176.181, 471.617, and 471.982 or any other law of the state of Minnesota to form self-insurance entities or otherwise act as a self-insurer immediately terminates upon any filing to commence bankruptcy proceedings in regard to the self-insurance entity or self-insurer without further action by the commissioner.

Sec. 7. Minnesota Statutes 1982, section 60A.13, is amended by adding a subdivision to read:

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

Sec. 8. Minnesota Statutes 1982, section 60A.13, subdivision 6, is amended to read:

Subd. 6. COMPANY OR AGENT CANNOT CONTINUE BUSINESS UNLESS STATEMENT IS FILED. No company or agent thereof shall transact any new business in this state after May thirty-first in any year unless it shall have previously transmitted the its annual statement to the commissioner and filed the a copy of its statement with the National Association of Insurance Commissioners with the required filing fee. The commissioner may by order annually require that each insurer pay the required fee to the National Association of Insurance Commissioners for the filing of annual statements, but the fee shall not be more than 50 percent greater than the fee set by the National Association of Insurance Commissioners on January 1, 1984. The fee shall be based on the relative premium volume of each insurer. The commissioner's order shall not be subject to chapter 14.

Sec. 9. Minnesota Statutes 1983 Supplement, section 60A.14, subdivision 1, is amended to read:

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;

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(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, \$50;

(2) for filing annual statement, \$30;

(3) for filing certified copy of amendment to certificate or articles of incorporation, \$50;

(4) for filing bylaws, \$25 or amendments thereto, \$10;

(5) for each company's certificate of authority, \$40, 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, \$5;

(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, \$40;

(4) for receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of insurance, 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 one thousand dollars 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 amended or duplicate amendment (variable annuity) to a license, \$25 \$20, and for renewal of amendment, \$20;

(8) for an application, examination, or re-examination for one class of license, \$15 and an additional \$15 for an application, examination, or re-examination for the second class of license;

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~~(9)~~ for each appointment of an agent filed with the commissioner, a domestic insurer shall remit \$5 and all other insurers shall remit \$3;

~~(10)~~ (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;

~~(11)~~ (10) for issuing and renewing a surplus lines agent's license, \$500 \$150;

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

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

(13) for processing checks returned due to insufficient funds, \$15;

(14) for filing forms and rates, \$10 per filing. The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 10. Minnesota Statutes 1982, section 60A.15, subdivision 1, is amended to read:

Subdivision 1. **DOMESTIC AND FOREIGN COMPANIES OTHER THAN TOWN AND FARMERS' MUTUAL AND DOMESTIC MUTUALS OTHER THAN LIFE.** On or before April 15, June 15, and December 15 of each year ~~following December 31, 1974~~, every domestic and foreign company, except town and farmers' mutual insurance companies and domestic mutual insurance companies other than life, shall pay to the ~~state treasurer through the~~ commissioner of ~~insurance 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. ~~If unpaid by such dates penalties of ten percent shall accrue thereon, and thereafter such sum and penalties shall draw interest at the rate of one percent per month until paid.~~ 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 subdivision.

Sec. 11. Minnesota Statutes 1982, section 60A.15, is amended by adding a subdivision to read:

Subd. 1a. ADDITION TO THE TAX. In case of any underpayment of installments by an insurer, there shall be added to the tax for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of underpayment.

Sec. 12. Minnesota Statutes 1982, section 60A.15, is amended by adding a subdivision to read:

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Subd. 1b. AMOUNT OF UNDERPAYMENT. For purposes of subdivision 1a, the amount of the underpayment shall be the excess of: (1) the amount of the installment; over (2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Sec. 13. Minnesota Statutes 1982, section 60A.15, is amended by adding a subdivision to read:

Subd. 1c. PERIOD OF UNDERPAYMENT. The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier:

(1) on March 1 following the close of the taxable year;

(2) with respect to any portion of the underpayment, the date on which that portion is paid. For purposes of this clause, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under subdivision 1c, clause (1) for the installment date.

Sec. 14. Minnesota Statutes 1982, section 60A.15, is amended by adding a subdivision to read:

Subd. 1d. DEFINITION OF TAX. The term "tax" means the tax imposed by chapter 60A.

Sec. 15. Minnesota Statutes 1982, section 60A.15, is amended by adding a subdivision to read:

Subd. 1e. FAILURE TO FILE AN ESTIMATE. In the case of an insurer which fails to file an estimated tax for a taxable year when one is required, the period of the underpayment shall run from the installment dates as set forth in subdivision 1 or 2 to whichever of the periods set forth in subdivision 1c is the earlier.

Sec. 16. Minnesota Statutes 1982, section 60A.15, subdivision 2, is amended to read:

**Subd. 2. DOMESTIC MUTUAL INSURANCE COMPANIES.** On or before April 15, June 15, September 15 and December 15 of each year following ~~December 31, 1971~~, every domestic mutual insurance company including township and farmers' insurance companies shall pay to the state treasurer through the commissioner of insurance revenue quarterly installments of the insurer's total estimated tax for the current year based on a sum equal to two percent of the gross direct fire, lightning, and sprinkler leakage premiums, less return premiums on all direct business, except auto and ocean marine fire business received by it, or by its agents for it, in cash or otherwise, on property located in this state, during such year. If unpaid by such dates penalties of ten percent shall accrue thereon, and thereafter such sum and penalties shall draw interest at

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the rate of one percent per month until paid, there shall be added to the tax for the taxable year an amount determined pursuant to subdivisions 1a to 1c. Failure of a company to make quarterly payments of at least one-fourth 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 subdivision.

Sec. 17. Minnesota Statutes 1982, section 60A.15, subdivision 2a, is amended to read:

Subd. 2a. **PROCEDURE FOR FILING AND ADJUSTMENT OF STATEMENTS AND TAXES.** (a) ~~Payment of premium taxes for 1971 shall be paid in two installments. Every insurer subject to premium tax in this state shall make and file a statement of estimated premium tax on or before July 1, 1971. Failure of a company to make payment on July 1, 1971, of at least one-half 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 subdivisions 1 and 2. The second installment shall be due on March 1, 1972, and shall be subject to the provisions of clauses (e) and (f) of this subdivision.~~

(b) Every insurer required to pay a premium tax in this state shall make and file a statement of estimated premium taxes for the period covered by the installment tax payment. Such statement shall be in the form prescribed by the commissioner of revenue.

(c) ~~(b)~~ On or before March 1, annually every insurer subject to taxation under section 60A.15 shall make an annual return for the preceding calendar year setting forth such information as the commissioner of revenue may reasonably require on forms prescribed by him.

(d) ~~(c)~~ On March 1, the insurer shall pay any additional amount due for the preceding calendar year; if there has been an overpayment, such overpayment may be credited without interest on the estimated tax due April 15.

(e) If unpaid by this date penalties and interest as provided in section 290.53, subdivision 1, shall be imposed.

Sec. 18. Minnesota Statutes 1982, section 60A.15, subdivision 6, is amended to read:

Subd. 6. **MARINE INSURANCE COMPANIES.** Every domestic and foreign company shall pay to the state ~~treasurer~~ commissioner of revenue on or before June 1 annually a sum equal to five percent of its taxable underwriting profit, ascertained as hereinafter provided, with respect to all insurance written within this state, during the preceding calendar year, upon hulls, freights, or disbursements, or upon goods, wares, merchandise and all other personal property and interests therein, in course of exportation from, importation into any

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country, or transportation coastwise, including transportation by land or water from point of origin to final destination in respect to, appertaining to, or in connection with, any and all risks or perils of navigation, transit or transportation, and while being prepared for, and while awaiting shipment, and during any delays, storage, transshipment or reshipment incident thereto, including war risks and marine builder's risks. If unpaid by such date a ~~penalty of ten percent shall accrue thereon, and thereafter such sum and penalty shall draw interest at the rate of one percent per month until paid,~~ penalties and interest as provided by section 290.53, subdivision 1, shall be imposed.

The underwriting profit on such insurance written within this state shall be that proportion of the total underwriting profit of such insurer from such insurance written within the United States which the amount of net premiums of such insurer from such insurance written within this state bears to the amount of net premiums of such insurer from such insurance written within the United States.

The underwriting profit of such insurer on such insurance written within the United States shall be determined by deducting from the net earned premiums on such marine insurance written within the United States during the taxable year, meaning thereby the calendar year next preceding the date on which such tax is due, the following items:

(a) Net losses incurred, meaning gross losses incurred during such calendar year under such marine insurance contracts written within the United States, less reinsurance claims collected or collectible and less net salvages or recoveries collected or collectible from any source applicable to the corresponding losses under such contracts;

(b) Net expenses incurred in connection with such marine contracts, including all state and federal taxes in connection therewith; but in no event shall the aggregate amount of such net expenses deducted exceed forty percent of the net premiums on such marine insurance contracts, ascertained as hereinafter provided; and

(c) Net dividends paid or credited to policyholders on such marine insurance contracts.

In determining the amount of such tax, net earned premiums on such marine insurance contracts written within the United States during the taxable year shall be arrived at as follows:

From gross premiums written on such contracts during the taxable year deduct any and all return premiums, premiums on policies not taken, premiums paid for reinsurance of such contracts and net unearned premiums on all such outstanding contracts at the end of the taxable year; and add to such amount net unearned premiums on such outstanding marine insurance contracts at the end of the calendar year next preceding the taxable year.

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In determining the amount of such tax, net expenses incurred shall be determined as the sum of the following:

(d) Specific expenses incurred on such marine insurance business, consisting of all commissions, agency expenses, taxes, licenses, fees, loss adjustment expenses, and all other expenses incurred directly and specifically in connection with such business, less recoveries or reimbursements on account of or in connection with such commissions or other expenses collected or collectible because of reinsurance or from any other source.

(e) General expenses incurred on such marine insurance business, consisting of that proportion of general or overhead expenses incurred in connection with such business which the net premiums on such marine insurance written during the taxable year bear to the total net premiums written by such insurer from all classes of insurance written by it during the taxable year. Within the meaning of this paragraph, general or overhead expenses shall include salaries of officers and employees, printing and stationery, all taxes of this state and of the United States, except as included in paragraph (d) last above, and all other expenses of such insurer, not included in paragraph (d) last above, after deducting expenses specifically chargeable to any or all other classes of insurance business.

In determining the amount of such tax, the taxable underwriting profit of such insurer on such marine insurance business written within this state, shall be ascertained as follows:

(f) In the case of every such insurer which has written any such business within this state during three calendar years immediately preceding the year in which such taxes were payable, the taxable underwriting profit shall be determined by adding or subtracting, as the case may be, the underwriting profit or loss on all such insurance written within the United States, ascertained as hereinbefore provided, for each of such three years, and dividing by three.

(g) In the case of every such insurer other than as specified in paragraph (f) last above, such taxable underwriting profit, if any, shall be the underwriting profit, if any, on such marine insurance business written within this state during the taxable year, ascertained as hereinbefore provided; but after such insurer has written such marine insurance business within this state during three calendar years, an adjustment shall be made on the three year average basis by ascertaining the amount of tax payable in accordance with paragraph (f) last above.

The tax hereinbefore provided shall be paid annually by every insurer authorized to do in this state the business of marine insurance during any one or more of the next preceding three calendar years, and the calendar year next preceding such June first shall be deemed the taxable year within the meaning of this section.

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Every insurer liable to pay the tax hereinbefore provided shall, on or before the first day of June in each year, file with the ~~state treasurer~~ commissioner of revenue a tax return in the form prescribed by him.

The tax provided for in this section shall apply to the business of the year ending December 31, 1952, and to subsequent years.

Sec. 19. Minnesota Statutes 1982, section 60A.15, subdivision 8, is amended to read:

Subd. 8. **EXAMINATION OF RETURNS; ASSESSMENTS; REFUNDS.** The commissioner of ~~insurance~~ revenue shall, as soon as practicable after a return required by this section is filed, examine the same and make any investigation or examination of the company's records and accounts that he may deem necessary for determining the correctness of the return. The tax computed by him on the basis of such examination and investigation shall be the tax to be paid by such company. If the tax found due shall be greater than the amount reported as due on the company's return, the commissioner shall assess a tax in the amount of such excess and the whole amount of such excess shall be paid to the ~~state treasurer~~ commissioner of revenue within ~~30~~ 60 days after notice of the amount and demand for its payment shall have been mailed to the company by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the company on its return which have not yet been paid shall be paid to the state treasurer within 30 days after notice of the amount thereof and demand for payment shall have been mailed to the company by the commissioner. If the amount of the tax found due by the commissioner shall be less than that reported as due on the company's return, the excess shall be refunded to the company in the manner provided by subdivision 12, (except that no demand therefor shall be necessary), if they have already paid the whole of such tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in subdivision 12, after the expiration of three and one-half years after the filing of the return.

If the commissioner examines returns of a company for more than one year, he 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 subdivisions 8 to 10, shall be in such form as the commissioner may determine (including a statement) and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the company at the address given in its return, if any, and if no such address is given, then to the last known address.

Sec. 20. Minnesota Statutes 1982, section 60A.15, subdivision 9, is amended to read:

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**Subd. 9. FAILURE TO FILE RETURN, FALSE OR FRAUDULENT RETURN FILED.** If any company required by this section to file any return shall fail to do so within the time prescribed or shall make, ~~willfully~~ willfully or otherwise, an incorrect, false, or fraudulent return, it shall, on the written demand of the commissioner of ~~insurance~~ revenue, file such return, or corrected return, within ~~30~~ 60 days after the mailing of such written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof. If such company shall fail within that time to file such return, or corrected return, the commissioner shall make for it a return, or corrected return, from his own knowledge and from such information as he can obtain through testimony, or otherwise, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable year covered by such return) shall be paid ~~within ten~~ 60 days after the commissioner has mailed to such company a written notice of the amount thereof and demand for its payment. Any such return or assessment made by the commissioner on account of the failure of the company to make a return, or a corrected return, shall be prima facie correct and valid, and the company shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Sec. 21. Minnesota Statutes 1982, section 60A.15, is amended by adding a subdivision to read:

**Subdivision 9a. FAILURE TO FILE; PENALTIES AND INTEREST.** In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner of revenue in pursuance of law there shall be added to the tax penalties and interest as provided in section 290.53, subdivision 2.

Sec. 22. Minnesota Statutes 1982, section 60A.15, is amended by adding a subdivision to read:

**Subd. 9b. INTENT TO EVADE TAX; PENALTY.** If any company, 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.

Sec. 23. Minnesota Statutes 1982, section 60A.15, is amended by adding a subdivision to read:

**Subd. 9c. NEGLIGENCE OR INTENTIONAL DISREGARD; PENALTY.** If any part of any additional assessment is due to negligence or intentional disregard of the statute or a rule (but without intent to defraud), there shall be added to the tax a penalty as provided in section 290.53, subdivision 3a.

Sec. 24. Minnesota Statutes 1982, section 60A.15, is amended by adding a subdivision to read:

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Subd. 9d. CRIMINAL PROVISIONS. In addition to the penalties hereinbefore prescribed, the provisions of section 290.53, subdivision 4, shall apply to persons required by chapter 60A to make a return.

Sec. 25. Minnesota Statutes 1982, section 60A.15, subdivision 10, is amended to read:

Subd. 10. **COLLECTION OF TAX.** The tax required to be paid by this section may be collected in an ordinary action at law by the commissioner of insurance revenue against the company. In any action commenced pursuant to this section, upon the filing of an affidavit of default, the clerk 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.

Sec. 26. Minnesota Statutes 1983 Supplement, section 60A.15, subdivision 12, is amended to read:

Subd. 12. **OVERPAYMENTS, CLAIMS FOR REFUND. (1) PROCEDURE, TIME LIMIT, APPROPRIATION.** A company who has paid, voluntarily or otherwise, or from whom there has been collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of insurance revenue a claim for a refund of the excess. Except as provided in subdivision 11, no claim or refund shall be entertained unless filed within two years after the tax was paid or collected, or within 3-1/2 years from the filing of the return, whichever period is the longer allowed or made after 3-1/2 years from the date prescribed for filing the return (plus any extension of time granted for filing the return but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the company. For this purpose, a return or amended return claiming an overpayment constitutes a claim for refund.

Upon the filing of a claim, the commissioner shall examine it and shall make and file written findings denying or allowing the claim in whole or in part. He shall mail a notice thereof to the company at the address stated upon the return. If the claim is allowed in whole or in part, the commissioner shall issue his certificate for the refundment of the excess paid by the company, with interest at the rate of ~~two~~ six percent per annum computed from the date of the payment ~~or collection~~ of the tax until the date the refund is paid or the credit is made to the company. The commissioner of finance shall pay the refund out of the proceeds of the taxes imposed by this section, as other state moneys are expended. As much of the proceeds of the taxes as necessary are appropriated for that purpose.

(2) **DENIAL OF CLAIM, COURT PROCEEDINGS.** If the claim is denied in whole or in part, ~~the company may commence an action against the commissioner to recover any overpayments of taxes claimed to be refundable for~~

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which the commissioner has issued no certificate of refundment commissioner shall mail an order of denial to the company in the manner prescribed in subdivision 8. An appeal from this order may be taken to the Minnesota tax court in the manner prescribed in section 271.06, or the company may commence an action against the commissioner to recover the denied overpayment. The action may be brought in the district court of the district in the county of its principal place of business, or in the district court for Ramsey county. The action may be commenced six months after the claim is filed if the commissioner has not then taken final action on it. The action shall be commenced within 18 months after the notice of the order denying the claim in the district court must be commenced within 18 months following the mailing of the order of denial to the company. If a claim for refund is filed by a company and no order of denial is issued within six months of the filing, the company may commence an action in the district court as in the case of a denial, but the action must be commenced within two years of the date that the claim for refund was filed.

(3) **DENIAL OF CLAIM, APPEAL.** Either party to the action may appeal as in other civil cases.

(4) **CONSENT TO EXTEND TIME.** If the commissioner and the company have, within the periods prescribed in clause (1), consented in writing to any extension of time for the assessment of the tax, the period within which a claim for refund may be filed, or a refund may be made or allowed, if no claim is filed, shall be the period within which the commissioner and the company have consented to an extension for the assessment of the tax and six months thereafter. The period within which a claim for refund may be filed shall not expire prior to two years after the tax was paid.

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

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

#### Sec. 27. [60A.151] PAYMENT OF TAX PENDING APPEAL.

When a company appeals any tax liability assessed under the insurance laws of this state to the tax court and the amount in dispute is more than \$6,000, the entire amount of the tax, penalty, and interest assessed by the commissioner must be paid at the time it is due unless permission to continue prosecution of the petition without payment is obtained. The petitioner, upon ten days notice to the

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commissioner of revenue, may apply to the court for permission to continue prosecution of the petition without payment, and, if it is made to appear:

(1) that the proposed review is to be taken in good faith;

(2) that there is probable cause to believe that the company may be held exempt from the liability or that the liability may be determined to be less than 50 percent of the amount due; and

(3) that it would work a substantial hardship on the petitioner to pay the liability,

the court may permit the petitioner to continue prosecution of the petition without payment, or may fix a lesser amount to be paid as a condition of continuing the prosecution of the petition.

Failure to make payment of the amount required when due operates automatically to dismiss the petition and all proceedings thereunder, unless the payment is waived by an order of the court permitting the petitioner to continue prosecution of the petition without payment.

Sec. 28. Minnesota Statutes 1983 Supplement, section 60A.17, subdivision 1a, is amended to read:

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 and shall be accompanied by a money order or cashier's check payable to the state treasurer for the amount of the examination fee prescribed by section 60A.14, subdivision 1, paragraph (e), clause (8). All examination fees shall be nonrefundable. The applicant shall have six months from the date of payment of the examination fee to take the exam. 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:

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(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 studies in a school, which shall include a school conducted by an admitted insurer, a correspondence course given by an admitted insurer, or other course of study. The course of study shall consist of the equivalent of 45 hours study for each line for which a license application is made. After January 1, 1982, 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 an admitted insurer shall accompany the agent'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

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(7) Any applicant for a license covering the same class or classes of insurance for which the applicant was licensed under a similar license in this state, other than a temporary license, within the three years preceding the date of the application shall be exempt from the requirement of a written examination, unless the previous license was revoked or suspended by the commissioner.

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

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

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

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

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

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

(2) The commissioner may also deny issuance of a license for any cause that would subject the license of a licensee to suspension or revocation. If a license is denied pursuant to this clause, the provisions of section 60A.17, subdivision 6c, paragraph (c) apply.

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(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 section 60A.17, 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 ~~in address or change in state of residency~~ 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 ~~money order or cashier's check~~ payable to the state treasurer for the amount of fee specified in section 60A.14, subdivision 1, paragraph (c), ~~clause (7).~~

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;

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

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

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

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

Sec. 29. Minnesota Statutes 1983 Supplement, section 60A.17, subdivision 1d, is amended to read:

Subd. 1d. **RENEWAL FEE.** (a) Each agent licensed pursuant to this section shall annually pay in accordance with the procedure adopted by the commissioner a renewal fee as prescribed by section 60A.14, subdivision 1, paragraph (c), clause (10).

(b) Every agent, corporation, and partnership license expires on May 31 of the year for which period a license is issued.

(c) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are approved for renewal and may continue to transact business whether or not the renewed license has been received on or before June 1. Applications for renewal of a license are timely filed if received by the commissioner on or before May 15 of the year due, on forms duly executed and accompanied by appropriate fees. An application mailed is considered timely filed if addressed to the commissioner, with proper postage, and postmarked by May 15.

(d) The commissioner may issue licenses for agents, corporations, or partnerships for a three-year period. If three-year licenses are issued, the fee is three times the annual license fee.

Sec. 30. Minnesota Statutes 1982, section 60A.17, subdivision 3, is amended to read:

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Subd. 3. **BROKERAGE BUSINESS.** Every insurance agent duly licensed to transact business in this state shall have the right to procure the insurance of risks, or parts of risks, in the class or classes of insurance for which he is licensed in other insurers duly authorized to transact business in this state, but such insurance shall only be consummated through a duly licensed appointed resident agent of the insurer taking the risk. If the law of another state requires a non-resident agent who is a resident agent of Minnesota to pay a portion of the premium to or share commissions with a licensed resident agent of that state, then the licensed resident agent of Minnesota when consummating and counter-signing for a licensed non-resident agent of that state shall receive five percent of the total premium or 25 percent of the commission, whichever is less.

Sec. 31. Minnesota Statutes 1982, section 60A.17, subdivision 5b, is amended to read:

Subd. 5b. **TERM OF APPOINTMENTS.** All appointments of agents by insurers pursuant to this section shall remain in force ~~for one year unless sooner~~ until terminated voluntarily by the appointing insurer or the license of the agent has for any reason been terminated during the appointment year. The original appointing insurer, as well as any subsequent appointing insurer, may terminate their appointment of an agent at any time by giving written notice thereof to the commissioner and by sending a copy thereof to the last known address of the agent. The effective date of the termination shall be the date of receipt of the notice by the commissioner unless another date is specified by the insurer in the notice. Within 30 days after the insurer gives notice of termination to the commissioner, the insurer shall furnish the agent with a current statement of the agent's commission account.

Accompanying the notice of a termination given to the commissioner by the insurer shall be a statement of the specific reasons constituting the cause of termination. Any document, record, or statement relating to the agent which is disclosed or furnished to the commissioner contemporaneously with, or subsequent to, the notice of termination shall be deemed confidential by the commissioner and a privileged communication. The document, record, or statement furnished to the commissioner shall not be admissible in whole or in part for any purpose in any action or proceeding against (a) the insurer or any of its officers, employees, or representatives, submitting or providing the document, record or statement, or (b) any person, firm, or corporation furnishing in good faith to the insurer the information upon which the reasons for termination are based.

The agent may request of the commissioner and the commissioner shall disclose to the agent the specific reason or reasons for termination.

Sec. 32. Minnesota Statutes 1982, section 60A.17, is amended by adding a subdivision to read:

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Subd. 6d. SHOW CAUSE ORDERS. If the commissioner determines that one of the conditions listed in subdivision 6c exists, the commissioner may issue an order requiring a licensee or an applicant for a license to show cause why the license should not be revoked or the application denied. The order must be calculated to give reasonable notice of the time and place for hearing thereon, and must state the reasons for the entry of the order. The commissioner may by order summarily suspend a license pending final determination of an order to show cause. If a license is suspended pending final determination of an order to show cause, a hearing on the merits must be held within 30 days of the issuance of the order of suspension. All hearings must be conducted in accordance with chapter 14. After the hearing, the commissioner shall enter an order making a disposition of the matter as the facts require. If the licensee or applicant fails to appear at a hearing of which he has been duly notified, the person is in default, and the proceeding may be determined against him upon consideration of the order to show cause, the allegations of which may be deemed to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted pursuant to this subdivision.

Sec. 33. Minnesota Statutes 1983 Supplement, section 60A.17, subdivision 6c, is amended to read:

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 moneys 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;

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(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 his or her discretion shall after two years permit the licensee to sooner terminate the maintenance filing of the bond.

(d) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of ~~chapter~~ chapters 60A to 72A or of any rule or order of the commissioner:

(1) The commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from the violation. The order shall give reasonable notice of the time and place of hearing and shall state the reasons for the entry of the order. A hearing shall be held not later than seven days after the issuance of the order unless the person requests a delay. After the hearing and within 30 days of filing of any exceptions to the hearing examiner's report, the commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against

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the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(2) The commissioner may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with ~~chapter~~ chapters 60A to 72A and any rule or order of the commissioner; and

(3) In any proceeding under ~~chapter~~ chapters 60A to 72A relating to injunction, the request for injunction may be brought on for hearing and disposition upon an order to show cause returnable upon not more than eight days notice to the defendant. The case shall have precedence over other matters on the court calendar and shall not be continued without the consent of the state of Minnesota, except upon good cause shown to the court, and then only for a reasonable length of time as may be necessary in the opinion of the court to protect the rights of the defendant.

(e) 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 his or her licensure.

Sec. 34. Minnesota Statutes 1983 Supplement, section 60A.1701, subdivision 5, is amended to read:

Subd. 5. **POWERS OF THE ADVISORY TASK FORCE.** (a) Applications for accreditation of each course must be submitted to the commissioner on forms prescribed by the commissioner and must be accompanied by a fee of not more than \$10 \$50 payable to the state of Minnesota for deposit in the general fund. A fee of \$50 must accompany applications for approval of individuals responsible for monitoring course offerings. 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.

Sec. 35. Minnesota Statutes 1983 Supplement, section 60A.1701, subdivision 10, is amended to read:

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

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(b) Each compliance report must be accompanied by an annual continuing education fee of \$5 payable to the state of Minnesota for deposit in the general fund.

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

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

Sec. 36. Minnesota Statutes 1983 Supplement, section 60A.1701, subdivision 11, is amended to read:

Subd. 11. **ENFORCEMENT.** If a person subject to this section fails to complete the minimum education or reporting requirement or to pay the prescribed fees for any annual period, no license may be renewed or continued in force for that person for any class of insurance beginning June 1 of the year due and that person may not act as an insurance agent until the person has demonstrated to the satisfaction of the commissioner that all requirements of this section have been complied with or that a waiver or extension has been obtained.

If a person subject to this section fails to file a compliance request or a request for a waiver or extension with the commissioner within 30 days of the date on which the person is required to report, the commissioner may issue an order summarily suspending that person's license. The order is effective upon service on the person by first class mail at his last known address on file with the commissioner. A person whose license has been summarily suspended under this subdivision may, within 15 days of the date of the order, request a hearing to be conducted according to the provisions of chapter 14. The hearing must be held within 15 days of the commissioner's receipt of the request, but the person may agree to an extension. The summary suspension remains in effect pending the outcome of the hearing.

Sec. 37. Minnesota Statutes 1982, section 60A.18, subdivision 3, is amended to read:

Subd. 3. **LICENSE, APPLICATION, CONTENTS.** The application for a license for each device to be used shall be made by the agent in such form and with such information as shall be prescribed by the commissioner. A fee of

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~~§3~~ \$20 for each device shall be paid at the time of making application. Upon approval of the application, the commissioner shall issue to the agent a special vending machine license. The license shall apply to a specific device or to any device of identical type which, after written notice by the agent to the commissioner, is substituted for it. The license shall specify the name and address of the agent, the name and home office address of the insuring company, the name or other identifying information of the policy or policies to be sold, the serial number or other identification of the device and the address, including the location on the premises, where the device is to be in operation; provided, however, that a device for which a license has been issued for operation at a specific address may be transferred to a different address during the license year upon written notice to the commissioner at the time of such transfer. The license for each device shall expire on ~~September 1st~~ May 31st of each year, but may be renewed from year to year by the commissioner upon approval of the application by the agent and the furnishing of such information as shall be requested by the commissioner, and the payment of ~~§3~~ \$20 for each license year or part thereof for each device. Proof of the existence of a subsisting license shall be displayed on or about each such device in use in such manner as the commissioner may reasonably require.

Sec. 38. Minnesota Statutes 1982, section 60A.19, subdivision 4, is amended to read:

Subd. 4. **FEES.** The commissioner shall be entitled to charge and receive a fee prescribed by section 60A.14, subdivision 1, ~~(3) (d)~~ paragraph (c), clause (4), for each notice, proof of loss, summons, or other process served upon him under the provisions of subdivisions 3 and 4, to be paid by the persons serving the same. The service of process is made by delivering to and leaving with the commissioner two copies thereof for each company being served.

Sec. 39. Minnesota Statutes 1982, section 60A.19, subdivision 8, is amended to read:

Subd. 8. **INSURANCE FROM UNLICENSED FOREIGN COMPANIES.** When any person, firm, or corporation desires to obtain insurance upon any property, interests, or risks of any nature other than life insurance in this state in companies not authorized to do business therein he or they shall give bond to the commissioner of commerce in such sum as he shall deem reasonable, with satisfactory resident sureties, conditioned that the obligors, on the expiration of a license to obtain such insurance, shall pay to the commissioner of revenue, for the use of the state, a tax of two percent upon the gross premiums paid by the licensee. Thereupon the commissioner of commerce shall issue such license, good for one year, and all insurance procured thereunder shall be lawful and valid and the provisions of all policies thereof shall be deemed in accordance, and construed as if identical in effect, with the standard policy prescribed by the laws of this state and the insurers may enter the state to perform any act necessary or

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proper in the conduct of the business. This bond may be enforced by the commissioner of commerce in his own name in any district court. The licensee shall file with the commissioner of commerce on June thirtieth and December thirty-first annually a verified statement of the aggregate premiums paid and returned premiums received on account of such insurance.

Sec. 40. Minnesota Statutes 1983 Supplement, section 60A.198, subdivision 3, is amended to read:

Subd. 3. **PROCEDURE FOR OBTAINING LICENSE.** A person licensed as a resident 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 a resident agent 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 him 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).

Sec. 41. Minnesota Statutes 1982, section 60A.199, is amended to read:

**60A.199 EXAMINATIONS.**

**Subdivision 1. EXAMINATION OF BOOKS AND RECORDS.** If the commissioner considers it necessary, he 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 insurer.

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**Subd. 2. EXAMINATION OF RETURNS; ASSESSMENT; RE-FUNDS.** 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 company's records and accounts that he deems necessary for determining the correctness of the return. The tax computed by him on the basis of the examination and investigation is the tax to be paid by the company. If the tax found due is greater than the amount reported due on the company'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 company by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the company on its return which are not paid shall be paid to the state treasurer within 60 days after notice of the amount thereof and demand for payment is mailed to the company by the commissioner. If the amount of the tax found due by the commissioner is less than that reported due on the company's return, the excess shall be refunded to the company in the manner provided by this section, except that no demand therefor is necessary, if the whole of the tax has been paid or credited against any unpaid installment thereof. No refund shall be made except as provided in this section after the expiration of three and one-half years after the filing of the return.

If the commissioner examines returns of a company for more than one year, he 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 company at the address given in its return. If the address is not given, then they will be sent to the last known address.

**Subd. 3. FAILURE TO FILE; FALSE OR FRAUDULENT RETURN.** If any company required by section 60A.198 to file any return fails to do so within the time prescribed or makes, wilfully or otherwise, an incorrect, false, or fraudulent return, it 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 company fails within that time to file the return, or corrected return, the commissioner shall make for it a return, or corrected return, from his own knowledge and from the information he can obtain 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 company a written notice of the amount thereof and demand for its payment. Any return or assessment made by the commissioner on account of

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the failure of the company to make a return, or a corrected return, is prima facie correct and valid, and the company has the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

**Subd. 4. FAILURE TO FILE; PENALTIES AND INTEREST.** In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law there shall be added to the tax penalties and interest as provided in section 290.53, subdivision 2.

**Subd. 5. INTENT TO EVADE TAX; PENALTY.** If any company 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.

**Subd. 6. NEGLIGENCE OR INTENTIONAL DISREGARD; PENALTY.** If any part of any additional assessment is due to negligence or intentional disregard of the statute or a rule (but without intent to defraud), there shall be added to the tax a penalty as provided in section 290.53, subdivision 3a.

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

Upon the filing of a claim the commissioner shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part. He shall mail a notice thereof to the company at the address stated upon the return. If the claim is allowed in whole or in part, the commissioner shall issue his certificate for a refund of the excess paid by the company, with interest at the rate of six percent per annum computed from the date of the payment of the tax until the date the refund is paid or credit is made to the company. The commissioner of finance shall cause the refund to be paid

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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 company in the manner prescribed in section 60A.199. An appeal from this order may be taken to the Minnesota tax court in the manner prescribed in section 271.06, or the company may commence an action against the commissioner to recover the denied overpayment. The action may be brought in the district court of the district in 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 company. If a claim for refund is filed by a company and no order of denial is issued within six months of the filing, the company may commence an action in the district court as in the case of a denial, but the action must be commenced within two years of the date that the claim for refund was filed.

**Subd. 10. CONSENT TO EXTEND TIME.** If the commissioner and the company have, within the periods prescribed in subdivision 1, consented in writing to any extension of time for the assessment of the tax, the period within which a claim for refund may be filed, or a refund may be made or allowed, if no claim is filed, is the period within which the commissioner and the company have consented to an extension for the assessment of the tax and six months thereafter, the period within which a claim for refund may be filed shall not expire prior to two years after the tax was paid.

**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 \$1 to the company if the company so requests.

Sec. 42. Minnesota Statutes 1982, section 60A.21, subdivision 2, is amended to read:

**Subd. 2. SERVICE OF PROCESS UPON UNAUTHORIZED INSURER.** (1) Any of the following acts in this state effected by mail or otherwise by an unauthorized foreign or alien insurer: (a) the issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein; (b) the solicitation of applications for such contracts; (c) the collection of premiums, membership fees, assessments, or other considerations for

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such contracts; or (d) any other transaction of insurance business, is equivalent to and shall constitute an appointment by such insurer of the commissioner of insurance and his successor or successors in office to be its true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

(2) Such service of process shall be made by delivering to and leaving with the commissioner of insurance or some person in apparent charge of his office two copies thereof and the payment to him of a filing fee of \$3 as prescribed by section 60A.14, subdivision 1, paragraph (c), clause (4). The commissioner of insurance shall forthwith mail by certified mail one of the copies of such process to the defendant at its last known principal place of business and shall keep a record of all process so served upon him. Such service of process is sufficient provided notice of such service and a copy of the process are sent within ten days thereafter by certified mail by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business and the defendant's receipt, or receipt issued by the post office with which the letter is certified showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

(3) Service of process in any such action, suit, or proceeding shall in addition to the manner provided in clause (2) of this subdivision be valid if served upon any person within this state who, in this state on behalf of such insurer, is: (a) soliciting insurance, or (b) making, issuing, or delivering any contract of insurance, or (c) collecting or receiving any premium, membership fee, assessment, or other consideration for insurance; and if a copy of such process is sent within ten days thereafter by certified mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant and the defendant's receipt, or the receipt issued by the post office with which the letter is certified showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

(4) No plaintiff or complainant shall be entitled to a judgment by default under this subdivision until the expiration of 30 days from the date of the filing of the affidavit of compliance.

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(5) Nothing in this subdivision contained shall limit or abridge the right to serve any process, notice, or demand upon any insurer in any other manner now or hereafter permitted by law.

(6) The provisions of this section shall not apply to surplus line insurance lawfully effectuated under Minnesota law, or to reinsurance, nor to any action or proceeding against an unauthorized insurer arising out of:

(a) Wet marine and transportation insurance;

(b) Insurance on or with respect to subjects located, resident, or to be performed wholly outside this state, or on or with respect to vehicles or aircraft owned and principally garaged outside this state;

(c) Insurance on property or operations of railroads engaged in interstate commerce; or

(d) Insurance on aircraft or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of such aircraft, where the policy or contract contains a provision designating the commissioner as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such policy, or where the insurer enters a general appearance in any such action.

Sec. 43. Minnesota Statutes 1982, section 60A.23, subdivision 5, is amended to read:

**Subd. 5. PROVISIONS AS TO FIDELITY AND SURETY COMPANIES. (1) REQUIREMENTS AND ACCEPTABILITY.** No company for guaranteeing the fidelity of persons in fiduciary positions, public or private, or for acting as surety, shall transact any business in this state until it shall have satisfied the commissioner that it has complied with all the provisions of law and obtained his certificate to that effect. Thereupon it shall be authorized to execute as sole or joint surety any bond, undertaking, or recognizance which, by any municipal or other law, or by the rules or regulations of any municipal or other board, body, organization, or officer, is required or permitted to be made, given, tendered, or filed for the security or protection of any person, corporation, or municipality, or any department thereof, or of any other organization, conditioned for the doing or omitting of anything in such bond or other instrument specified or provided; and any and all courts, judges, officers, and heads of departments, boards, and municipalities required or permitted to accept or approve of the sufficiency of any such bond or instrument may in their discretion accept the same when executed, or the conditions thereof guaranteed solely or jointly by any such company, and the same shall be in all respects full compliance with every law or other provisions for the execution or guaranty by one surety or by two or more sureties, or that sureties shall be residents or householders, or freeholders, or all or either.

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(2) **COUNTERSIGNATURE NOT REQUIRED.** The countersignature of a licensed resident agent shall not be required of any bid bond issued in connection with any public or private contract when such bid bond is issued by an insurer duly authorized to do business in this state.

(3) **LIMITS OF RISK.** No fidelity or surety company shall insure or reinsure in a single risk, less any portion thereof reinsured, a larger sum than one-tenth of its net assets.

Sec. 44. Minnesota Statutes 1982, section 61A.02, is amended to read:

**61A.02 FORMS OF POLICY.**

Subdivision 1. **PROHIBITED.** So-called coupon policies shall not be issued or delivered by any company to any residents of this state.

Subd. 2. **APPROVAL REQUIRED.** No policy of life insurance nor any rider of any kind or description which is made a part thereof shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, until the form of the same has been filed with approved by the commissioner; ~~and after he shall have notified any company of his disapproval of any form.~~ In making a determination under this section, the commissioner may require the insurer to provide rates and advertising materials related to policies issued or delivered in this state.

Subd. 3. **DISAPPROVAL.** The commissioner shall, within 60 days after the filing of any form, disapprove the form:

(1) if the benefits provided are unreasonable in relation to the premium charged;

(2) if it contains a provision or provisions which are unlawful, unfair, inequitable, misleading, or encourages misrepresentation of the policy; or

(3) if the form, or its provisions, is otherwise not in the public interest. It shall be unlawful for the company to issue any policy in the form so disapproved. The commissioner's action shall be subject to review by any court of competent jurisdiction. If the commissioner does not within 60 days after the filing of any form, disapprove or otherwise object, the form shall be deemed approved.

Subd. 4. **WITHDRAWAL OF APPROVAL.** The commissioner may at any time withdraw approval of any policy or form upon the grounds stated in subdivision 3. It is unlawful for the insurer to issue the form or use it in connection with any policy after the effective date of the withdrawal of approval.

Subd. 5. **HEARING.** Notification of disapproval or withdrawal of approval must be made to the insurer in writing, specifying the grounds for the disapproval. Upon written request made by the insurer, the commissioner shall grant a hearing within 30 days after receipt of the request. All hearings must be conducted in accordance with chapter 14. Following the hearing, the commission-

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er may affirm, reverse, or modify the previous determination made with respect to the subject policy or form.

Sec. 45. Minnesota Statutes 1982, section 61A.03, is amended by adding a subdivision to read:

Subd. 2a. No life insurer subject to this section is required to file more than one policy with a policy loan provision providing for a fixed rate of interest.

Sec. 46. **[61A.255] SPECIAL PROVISION.**

For the purposes of sections 61A.24 and 61A.25, insurers may utilize the 1958 Commissioners Standard Ordinary and the 1958 Commissioners Extended Term smoker and nonsmoker mortality tables and the 1980 Commissioners Standard Ordinary and the 1980 Commissioners Extended Term smoker and nonsmoker mortality tables in addition to the tables specified in sections 61A.24 and 61A.25. The tables may be utilized as provided in the model rule permitting smoker and nonsmoker mortality tables for use in determining minimum reserve liabilities and nonforfeiture benefits adopted by the National Association of Insurance Commissioners. This section applies to policies issued on or after January 1, 1984, and before January 1, 1989.

Sec. 47. Minnesota Statutes 1982, section 62A.025, is amended to read:

**62A.025 UNIFORM HEALTH INSURANCE CLAIM FORMS.**

The commissioner of ~~insurance~~ commerce shall prescribe uniform health insurance claim forms for each class of provider which shall be used by all insurers issuing in this state policies of accident and sickness insurance, and all service plan corporations issuing in this state subscriber contracts, and all state agencies that require health insurance claims for their records. The forms shall be scannable where required and provide information as required to insure maximum federal participation in program and administrative costs. Whenever feasible, the commissioner shall utilize the standardized claim form of the provider or an association to which the provider belongs.

Sec. 48. Minnesota Statutes 1982, section 62E.14, subdivision 1, is amended to read:

Subdivision 1. **CERTIFICATE, CONTENTS.** The comprehensive health insurance plan shall be open for enrollment by eligible persons. An eligible person shall enroll by submission of a certificate of eligibility to the writing carrier. The certificate shall provide the following:

- (a) Name, address, age, and length of time at residence of the applicant;
- (b) Name, address, and age of spouse and children if any, if they are to be insured;

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(c) Evidence of rejection, a requirement of restrictive riders, a rate up, or a pre-existing conditions limitation on a qualified plan, the effect of which is to substantially reduce coverage from that received by a person considered a standard risk, by at least ~~two~~ one association members within six months of the date of the certificate, or other eligibility requirements adopted by rule by the commissioner which are not inconsistent with this chapter and which evidence that a person is unable to obtain coverage substantially similar to that which may be obtained by a person who is considered a standard risk; and

(d) A designation of the coverage desired.

An eligible person may not purchase more than one policy from the state plan. Upon ceasing to be a resident of Minnesota a person is no longer eligible to purchase or renew coverage under the state plan.

Sec. 49. Minnesota Statutes 1982, section 62E.15, subdivision 3, is amended to read:

Subd. 3. The writing carrier shall pay an agent's referral fee of ~~\$25~~ \$50 to each insurance agent who refers an applicant to the state plan, if the application is accepted. Selling or marketing of qualified state plans shall not be limited to the writing carrier or its agents. The referral fees shall be paid by the writing carrier from money received as premiums for the state plan.

Sec. 50. Minnesota Statutes 1983 Supplement, section 65A.01, subdivision 3, is amended to read:

Subd. 3. **POLICY PROVISIONS.** On said policy following such matter as provided in subdivisions 1 and 2, printed in the English language in type of such size or sizes and arranged in such manner, as is approved by the commissioner of insurance, the following provisions and subject matter shall be stated in the following words and in the following sequence, but with the convenient placing, if desired, of such matter as will act as a cover or back for such policy when folded, with the blanks below indicated being left to be filled in at the time of the issuing of the policy, to wit:

(Space for listing the amounts of insurance, rates and premiums for the basic coverages provided under the standard form of policy and for additional coverages or perils provided under endorsements attached. The description and location of the property covered and the insurable value(s) of any building(s) or structure(s) covered by the policy or its attached endorsements; also in the above space may be stated whether other insurance is limited and if limited the total amount permitted.)

In consideration of the provisions and stipulations herein or added hereto and of the premium above specified this company, for a term of ..... from ..... (At 12:01 a.m. Standard Time) to ..... (At 12:01 a.m. Standard Time) at location of

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property involved, to an amount not exceeding the amount(s) above specified does insure . . . . and legal representatives . . . . .

(In above space may be stated whether other insurance is limited.) (And if limited the total amount permitted.)

Subject to form No.(s) . . . . attached hereto.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such provisions, stipulations and agreements as may be added hereto as provided in this policy.

This policy shall not be valid unless countersigned by the duly authorized agent of this company.

Countersigned at . . . . this . . . . day of . . . . 19 . . . . , . . . . Agent.

The insurance effected above is granted against all loss or damage by fire originating from any cause, except as hereinafter provided, also any damage by lightning and by removal from premises endangered by the perils insured against in this policy, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere. The amount of said loss or damage, except in case of total loss on buildings, to be estimated according to the actual value of the insured property at the time when such loss or damage happens.

If the insured property shall be exposed to loss or damage from the perils insured against, the insured shall make all reasonable exertions to save and protect same.

This entire policy shall be void if, whether before a loss, the insured has willfully, or after a loss, the insured has willfully and with intent to defraud, concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interests of the insured therein.

This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion, or manuscripts.

This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of

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preventing the spread of fire, providing that such fire did not originate from any of the perils excluded by this policy.

Other insurance may be prohibited or the amount of insurance may be limited by so providing in the policy or an endorsement, rider or form attached thereto.

Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

(a) while the hazard is increased by any means within the control or knowledge of the insured; or

(b) while the described premises, whether intended for occupancy by owner or tenant, are vacant or unoccupied beyond a period of 60 consecutive days; or

(c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

The extent of the application of insurance under this policy and the contributions to be made by this company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirements or proceeding on the part of this company relating to appraisal or to any examination provided for herein.

This policy shall be canceled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by this company by giving to the insured a ten days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as insured, such interest in this policy may be canceled by giving to such mortgagee a ten days' written notice of cancellation.

Notwithstanding any other provisions of this policy, if this policy shall be made payable to a mortgagee of the covered real estate, no act or default of any

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person other than such mortgagee or his agent or those claiming under him, whether the same occurs before or during the term of this policy, shall render this policy void as to such mortgagee nor affect such mortgagee's right to recover in case of loss on such real estate; provided, that the mortgagee shall on demand pay according to the established scale of rates for any increase of risks not paid for by the insured; and whenever this company shall be liable to a mortgagee for any sum for loss under this policy for which no liability exists as to the mortgagor, or owner, and this company shall elect by itself, or with others, to pay the mortgagee the full amount secured by such mortgage, then the mortgagee shall assign and transfer to the company his interest, upon such payment, in the said mortgage together with the note and debts thereby secured.

This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved.

In case of any loss under this policy the insured shall give immediate written notice to this company of any loss, protect the property from further damage, and a statement in writing, signed and sworn to by the insured, shall within 60 days be rendered to the company, setting forth the value of the property insured, except in case of total loss on buildings the value of said buildings need not be stated, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used, and the time at which and manner in which the fire originated, so far as known to the insured.

The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and, after being informed that he has a right to counsel and that his answers may be used against him in later civil or criminal proceedings, the insured shall, within a reasonable period after demand by this company, submit to examinations under oath by any person named by this company, and subscribe the oath. The insured, as often as may be reasonably required, shall produce for examination all records and documents reasonably related to the loss, or certified copies thereof if originals are lost, at a reasonable time and place designated by this company or its representatives, and shall permit extracts and copies thereof to be made.

In case the insured and this company, except in case of total loss on buildings, shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. In case either fails to select an appraiser within the time provided, then a presiding judge of the district court of the county wherein the loss occurs may appoint such appraiser for such party upon application of the other party in writing by giving five days' notice thereof in writing to the party

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failing to appoint. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then a presiding judge of the above mentioned court may appoint such an umpire upon application of party in writing by giving five days' notice thereof in writing to the other party. The appraisers shall then appraise the loss, stating separately actual value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this company shall determine the amount of actual value and loss. Each appraiser shall be paid by the party selecting him, or for whom he was selected, and the expense of the appraisal and umpire shall be paid by the parties equally.

It shall be optional with this company to take all of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

There can be no abandonment to this company of any property.

The amount of loss for which this company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided. It is moreover understood that there can be no abandonment of the property insured to the company, and that the company will not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy have been complied with, and unless commenced within two years after inception of the loss.

This company is subrogated to, and may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company; and the insurer may prosecute therefor in the name of the insured retaining such amount as the insurer has paid.

Assignment of this policy shall not be valid except with the written consent of this company.

IN WITNESS WHEREOF, this company has executed and attested these presents.

.....	.....
(Signature)	(Signature)
.....	.....
(Name of office)	(Name of office)

Sec. 51. Minnesota Statutes 1982, section 65A.03, is amended to read:

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**65A.03 BINDERS, TEMPORARY INSURANCE.**

Subdivision 1. **GENERALLY.** Binders or other contracts for temporary insurance may be made orally or in writing, and shall be deemed to include all the terms of such standard fire insurance policy and all such applicable endorsements as may be designated in such contract of temporary insurance; except that the cancellation clause of such standard fire insurance policy and the clause specifying the hour of the day at which the insurance shall commence, may be superseded by the express terms of such contract of temporary insurance.

Subd. 2. **EVIDENCE FOR PROPERTY PURCHASE FINANCING.** A duly authorized binder shall be acceptable as evidence of insurance coverage required as a condition of financing the purchase of real or personal property, provided that a mortgagee or lender shall not be required to accept renewal or extension thereof. This section does not require the approval of a binder by any person, firm, corporation, trustee, director, officer, agent, or employee, where there are reasonable grounds for believing that the insurance evidenced by the binder is unsatisfactory as to placement with an unauthorized insurer, the financial solvency of the insurer, adequacy of the coverage, adequacy of the insurer to assume the risk to be insured, the assessment feature to which the policy is subject, or other grounds which are not arbitrary, unreasonable, or discriminatory, nor does this section forbid the securing of insurance or a renewal thereof at the request of the borrower or because of the borrower's failure to furnish necessary insurance or renewal thereof.

Subd. 3. **PENALTY.** If any person, firm, corporation, trustee, director, officer, agent, or employee, refuses to accept a duly authorized binder pursuant to subdivisions 1 and 2, the commissioner of commerce may issue an order requiring acceptance and impose a civil penalty of \$500 per violation.

Sec. 52. Minnesota Statutes 1982, section 65B.001, subdivision 4, is amended to read:

Subd. 4. "Utility vehicle" means any four wheel vehicle, other than a private passenger vehicle, which has a pick-up, ~~sedan, delivery,~~ van, or panel truck type body and is not used primarily in the occupation, profession or business of the insured, other than farming or ranching.

Sec. 53. Minnesota Statutes 1982, section 65B.06, subdivision 2, is amended to read:

Subd. 2. With respect to private passenger, non-fleet automobiles, the facility shall provide for the issuance of policies of automobile insurance by participating members with coverage as follows:

(1) Bodily injury liability and property damage liability coverage in the minimum amounts specified in section 65B.49, subdivision 3;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.



(2) Uninsured motorists coverage as required by section 65B.49, subdivision 4;

(3) A reasonable selection of ~~additional~~ higher limits of liability coverage up to ~~fifty thousand dollars~~ \$50,000 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, up to ~~one hundred thousand dollars~~ \$100,000 because of bodily injury to or death of two or more persons in any one accident, and up to ~~ten thousand dollars~~ \$25,000 because of injury to or destruction of property of others in any one accident, or higher limits of liability coverage as recommended by the governing committee and approved by the commissioner;

(4) ~~Additional medical expense~~ Basic economic loss benefits, as required by section 65B.44, and other optional coverages as recommended by the governing committee and approved by the commissioner; and

(5) Automobile physical damage coverage, including coverage of loss by collision, subject to optional deductibles.

No coverage available under clause (5) shall be provided by a carrier that has been licensed to provide the coverage made available under clause (1) or (2), unless the qualified applicant has requested coverage pursuant to clause (1) or (2) as well as physical damage coverage. If a qualified applicant requests only physical damage coverage, the coverage shall be provided by an insurer not writing the coverage specified in clauses (1) and (2).

Sec. 54. Minnesota Statutes 1982, section 65B.14, subdivision 2, is amended to read:

Subd. 2. "Policy of automobile insurance" or "policy" means a policy of private passenger vehicle insurance as defined in section 65B.001, or a plan of reparation security as defined in section 65B.48 insuring less than five vehicles rated on a commercial or fleet basis, or a policy of insurance covering the use of a motorcycle, delivered or issued for delivery in this state.

Sec. 55. Minnesota Statutes 1982, section 65B.55, subdivision 1, is amended to read:

Subdivision 1. A plan of reparation security may prescribe a period of not less than six months after the date of accident within which an insured or any other person entitled to claim basic economic loss benefits, or anyone acting on their behalf, must notify the reparation obligor or its agent, of the accident and the possibility of a claim for economic loss benefits ~~in order to be eligible for such benefits. Such. Failure to provide notice will not render a person ineligible to receive benefits unless actual prejudice is shown by the reparation obligor, and then only to the extent of the prejudice.~~ The notice may be given in any reasonable fashion.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 56. Minnesota Statutes 1982, section 65B.14, subdivision 3, is amended to read:

Subd. 3. "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer on the same rating plan, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than six months or any policy with no fixed expiration date shall for the purpose of sections 65B.14 to 65B.21 be considered as if written for successive policy periods or terms of six months.

Sec. 57. Minnesota Statutes 1982, section 65B.16, is amended to read:

**65B.16 STATEMENT OF REASONS FOR CANCELLATION OR REDUCTION.**

No notice of cancellation or reduction in the limits of liability of coverage of an automobile insurance policy under section 65B.15 shall be effective unless the specific underwriting or other reason or reasons for such cancellation or reduction in the limits of liability of coverage are stated in such notice and the notice is mailed or delivered by the insurer to the named insured at least 30 days prior to the effective date of cancellation; provided, however, that when nonpayment of premium is the reason for cancellation or when the company is exercising its right to cancel insurance which has been in effect for less than 60 days at least ten days notice of cancellation shall be given. When nonpayment of premiums is the reason for cancellation, the reason must be given to the insured with the notice of cancellation; and if the company is exercising its right to cancel within the first ~~60~~ 59 days of coverage and notice is given with less than ten days remaining in the ~~60~~ 59-day period, the coverage must be extended, to expire ten days after notice was mailed.

Sec. 58. Minnesota Statutes 1983 Supplement, section 65B.17, subdivision 1, is amended to read:

Subdivision 1. **GENERAL REGULATIONS.** No insurer shall fail to renew an automobile insurance policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least 60 days advance notice of its intention not to renew. The notice must contain the specific underwriting or other reason or reasons for the nonrenewal. When the failure to renew is based upon a termination of the agency contract, the notice must so state. This section does not apply:

- (a) If the insurer has manifested its willingness to renew; or
- (b) In case of nonpayment of the renewal premium;

Provided that, notwithstanding the failure of an insurer to comply with this section, the policy terminates on the effective date of any other automobile

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insurance policy procured by the insured, with respect to any automobile designated in both policies. Renewal of a policy does not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of the renewal. No insurer shall fail to renew an automobile policy solely because of the age of the insured. No insurer shall refuse to renew an automobile insurance policy for reasons which are arbitrary or capricious. No insurer shall refuse to renew an automobile insurance policy in violation of rules adopted pursuant to subdivision 2. An insurer may refuse to renew an automobile insurance policy in case of 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 such insurance; provided, however, that this provision for nonrenewal for failure to pay dues shall not be applicable to persons who are retired at age 62 years of age or older or who are disabled, according to social security standards.

No insurer shall take any action in regard to an automobile insurance policy on the statements or charges of any person made to the insurer concerning alleged unsafe driving habits of an insured unless the insurer shall concurrently disclose to the insured the name and address of the person from which the insurer received the information.

Sec. 59. Minnesota Statutes 1982, section 65B.19, is amended to read:

**65B.19 NOTICE OF RIGHT TO COMPLAIN CANCELLATION OR NONRENEWAL.**

Subdivision 1. DISCLOSURE. No insurer shall take any action in regard to an automobile insurance policy on the statements or charges of any person made to the insurer concerning alleged unsafe driving habits of an insured unless the insurer shall concurrently disclose to the insured the name and address of the person from which the information was received.

Subd. 2. NOTICE OF RIGHT TO COMPLAIN. When the insurer notifies the policyholder of nonrenewal, cancellation or reduction in the limits of liability of coverage under sections 65B.16 or 65B.17, the insurer shall also notify the named insured of his right to complain within 30 days of his receipt of notice of nonrenewal, cancellation or reduction in the limits of liability to the commissioner of such action and of the nature of and his possible eligibility for insurance through the Minnesota automobile insurance plan. Such notice shall accompany ~~or~~ be included in the notice of nonrenewal, cancellation or reduction in the limits of liability of coverage, and shall state that such notice of the insured's right of complaint to the commissioner and of the availability of insurance through the Minnesota automobile insurance plan is given pursuant to sections 65B.14 to 65B.21.

Sec. 60. Minnesota Statutes 1982, section 65B.43, subdivision 2, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. "Motor vehicle" means every vehicle, other than a motorcycle or other vehicle with fewer than four wheels, which (a) is required to be registered pursuant to chapter 168, and (b) is designed to be self-propelled by an engine or motor for use primarily upon public roads, highways or streets in the transportation of persons or property, ~~or~~ (c) is and includes a trailer with one or more wheels, when the trailer is connected to or being towed by a motor vehicle.

Sec. 61. Minnesota Statutes 1982, section 65B.43, subdivision 13, is amended to read:

Subd. 13. "Motorcycle" means a self-propelled vehicle designed to travel on fewer than four wheels which has an engine rated at greater than five horsepower, and includes a trailer with one or more wheels, when the trailer is connected to or being towed by a motorcycle.

Sec. 62. Minnesota Statutes 1982, section 65B.43, is amended by adding a subdivision to read:

Subd. 15. "Plan of reparation security" means a contract, self-insurance, or other legal means under which there is an obligation to pay the benefits described in section 65B.49.

Sec. 63. Minnesota Statutes 1982, section 67A.241, subdivision 2, is amended to read:

Subd. 2. **EXTERNAL EXAMINATION OF COMPANY RECORDS AND ACCOUNTS.** (a) The board of directors of every township mutual insurance company shall, at least once every three years, cause the records and accounts of the company to be examined by an independent public accountant, auditor, or person who has been certified by the society of financial examiners. The examination shall cover the financial and business affairs including the treatment of members and claimants of the company during the previous three years ending December 31.

(b) A written summary report of the pertinent results of the examination shall immediately be filed with each member of the board of directors following completion of the examination. A complete examination report shall be filed with the board of directors and the commissioner within 60 days following completion of the examination.

(c) The accountant, auditor, or certified financial examiner conducting or supervising the examination must have a minimum of five years' experience in public accounting or examining the financial records or statements of financial institutions and shall not be an officer, or employee, ~~or member~~ of the company being examined. The examiner must not be directly involved in maintaining the records being examined, but may advise or counsel management in recordkeeping, accounting, or management procedures.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 64. Minnesota Statutes 1983 Supplement, section 69.011, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** Unless the language or context clearly indicates that a different meaning is intended, the following words and terms shall for the purposes of this chapter and chapters 423, 424 and 424A have the meanings ascribed to them:

(a) "Commissioner" means the commissioner ~~or director of insurance revenue.~~

(b) "Municipality" means any home rule charter or statutory city, organized town or park district subject to chapter 398.

(c) "Minnesota Firetown Premium Report" means a form prescribed by the commissioner containing space for reporting by insurers of fire, lightning, sprinkler leakage and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends.

(d) "Firetown" means the area serviced by any municipality having a qualified fire department or a qualified incorporated fire department having a subsidiary volunteer firefighters relief association.

(e) "Assessed Property Valuation" means latest available assessed value of all property in a taxing jurisdiction, whether the property is subject to taxation, or exempt from ad valorem taxation obtained from information which appears on abstracts filed with the commissioner of revenue or equalized by the state board of equalization.

(f) "Minnesota Aid to Police Premium Report" means a form prescribed by the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in auto liability-bodily injury, auto liability-property damage, and auto physical damage as reported in the Minnesota business schedule of the fire and casualty insurance companies annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or regulations less return premiums and dividends.

(g) "Peace officer" means any person:

(1) Whose primary source of income derived from wages is from direct employment by a municipality or county as a law enforcement officer on a full time basis of not less than 30 hours per week;

(2) Who has been employed for a minimum of six months prior to December 31 preceding the date of the current year's certification pursuant to subdivision 2, clause (b);

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(3) Who is sworn to enforce the general criminal laws of the state and local ordinances;

(4) Who is licensed by the peace officers standards and training board and is authorized to arrest with a warrant; and

(5) Who is a member of a local police relief association to which section 69.77 applies or the public employees police and fire fund.

(h) "Full time equivalent number of peace officers providing contract service" means the integral or fractional number of peace officers which would be necessary to provide the contract service if all peace officers providing service were employed on a full time basis as defined by the employing unit and the municipality receiving the contract service.

(i) "Retirement benefits other than a service pension" means any disbursement authorized pursuant to section 424.05, subdivision 3, clauses (2), (3) and (4).

(j) "Municipal clerk, municipal clerk-treasurer or county auditor" means the person who was elected or appointed to the specified position or, in the absence of the person, another person who is designated by the applicable governing body. In a park district the clerk is the secretary of the board of park district commissioners.

Sec. 65. Minnesota Statutes 1982, section 69.021, subdivision 1, is amended to read:

Subdivision 1. **MINNESOTA FIRETOWN PREMIUM REPORT AND MINNESOTA AID TO POLICE PREMIUM REPORT.** The commissioner of insurance revenue shall, at the time he mails annual statement and tax forms, send blank copies of the Minnesota Firetown Premium Report and when applicable the Minnesota Aid to Police Premium Report to each insurer, including township and farmers mutual insurance companies licensed to write insurance as described in section 69.011, subdivision 1, clauses (c) and (f) in this state. These reports shall contain space for the insurers name, address, gross premiums less return premiums, dividends, net premiums, certification and other facts the commissioner may require.

Sec. 66. Minnesota Statutes 1982, section 69.021, subdivision 2, is amended to read:

Subd. 2. **REPORT OF PREMIUMS.** Each insurer, including township and farmers mutual insurers where applicable, shall return to the commissioner of commerce with its annual financial statement the reports described in subdivision 1 certified by its secretary and president or chief financial officer. The Minnesota Firetown Premium Report shall contain a true and accurate statement of the total premium for all gross direct fire, lightning, and sprinkler leakage insurance of all domestic mutual insurers and the total premiums for all gross direct fire,

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lightning, sprinkler leakage and extended coverage insurance of all other insurers, less return premiums and dividends received by them on that business written or done during the preceding calendar year upon property located within the state or brought into the state for temporary use. The fire and extended coverage portion of multi-peril and multiple peril package premiums and all other combination premiums shall be determined by applying percentages determined by the commissioner of commerce or by rating bureaus recognized by the commissioner of commerce. The Minnesota Aid to Police Premium Report shall contain a true and accurate statement of the total premiums, less return premiums and dividends received, on all direct business received by such insurer in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for perils described in section 69.011, subdivision 1, clause (f).

Each insurer shall, in addition to filing with the commissioner of commerce the reports required by this subdivision, file the reports required by this subdivision with the commissioner of revenue.

Sec. 67. Minnesota Statutes 1982, section 69.021, subdivision 3, is amended to read:

**Subd. 3. PENALTY FOR FRAUDULENT, INCORRECT, INCOMPLETE RETURNS AND LATE FILING OF REPORT WITH THE COMMISSIONER OF COMMERCE.** When it appears to the commissioner of commerce that any insurer has made an incomplete or inaccurate report the commissioner of commerce shall return the report and demand that a complete and accurate report be filed with him. If the insurer fails to file a report by March 1, annually, or within 30 days after demand by the commissioner of commerce, the insurer shall be liable and shall pay \$25 for each seven days delinquent or fraction thereof.

Any insurer who knowingly makes and files an inaccurate or false report shall be liable to a fine of not less than \$25 nor more than \$1,000 and the commissioner of commerce may revoke the insurer's certificate of authority.

If any person whose duty it is to make the report fails or refuses to make it within 30 days after notification by the commissioner of commerce he shall be fined not more than \$1,000. Failure of the insurer to receive a reporting form shall not excuse the insurer from filing the report.

Sec. 68. Minnesota Statutes 1982, section 69.021, is amended by adding a subdivision to read:

**Subd. 3a. PENALTY FOR FRAUDULENT, INCORRECT, INCOMPLETE RETURNS AND LATE FILING OF REPORT WITH THE COMMISSIONER OF REVENUE.** When it appears that any insurer has made an incomplete or inaccurate report to the commissioner of revenue, the commissioner shall return the report and demand that a complete and accurate report be

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filed. If the insurer fails to file a report by March 1, annually, or within 60 days after demand by the commissioner the insurer shall be subject to penalties and interest as provided in section 290.53, subdivision 2.

Any insurer who knowingly makes and files an inaccurate or false report shall be liable for penalties and interest as provided in section 290.53, subdivision 3. The commissioner of commerce may revoke the insurer's certificate of authority.

Failure of the insurer to receive a reporting form shall not excuse the insurer from filing the report.

Sec. 69. Minnesota Statutes 1982, section 69.58, is amended to read:

**69.58 INSURING IN UNAUTHORIZED COMPANIES; DUES; STATEMENT.**

The owner of any property situated in any municipality having an organized fire department, or a partly paid or volunteer department, who carries insurance in a company not licensed by this state, or if he has not insured his property, who sets aside a reserve against loss or damage by fire, shall furnish to the commissioner of revenue, on a form prescribed and furnished by the commissioner, a statement, verified by affidavit, showing the description and location of the property, the amount of insurance, in companies not licensed by this state, he has effected against loss or damage by fire, the number of the policy, the name and location of the company issuing the policy, and the premiums paid; or, if he has not insured his property, the amount paid into or credited to any insurance fund or other reserve against loss or damage by fire. This statement shall be furnished by those property owners carrying insurance in companies not licensed by this state not more than 30 days after the issuance of the policy of insurance, and by those property owners not carrying insurance but having an insurance or other reserve fund against loss or damage by fire, upon demand of the commissioner, or, if no demand is made, then on or before January 31st, each year. Every such property owner whose duty it is to make this statement who shall wilfully make a false statement, or who shall, for 30 days after the demand neglect to render the statement, shall be guilty of a misdemeanor and fined \$50, one-half of which fine shall be transmitted to the commissioner and disbursed by him as other sums collected under the terms of sections 69.58 to 69.61 are disbursed.

Sec. 70. Minnesota Statutes 1982, section 69.59, is amended to read:

**69.59 COLLECTION OF PERCENTAGE ON PREMIUM; RECOVERY.**

If the insurance has been effected in any company not authorized to do business in this state, or if the owner carries his own insurance fund or reserves, the commissioner of revenue shall, and he is hereby authorized and empowered

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to, collect from the property owner such taxes as would equal the taxes on the annual premium which authorized insurance companies would have charged for insuring the property. If not paid upon demand, this percent may be recovered in a civil action brought in the name of the state. Penalties and interest as provided in section 290.53 shall be imposed.

Sec. 71. Minnesota Statutes 1982, section 72A.061, subdivision 2, is amended to read:

Subd. 2. **ARTICLES OF INCORPORATION; BYLAWS.** Any insurance company licensed to do business in this state, including fraternal and township mutuals, which neglects to file amended bylaws or related amendments within 30 days after date of approval by ~~shareholders or members of the company~~ shall be subject to a penalty of \$25 for each day in default.

Any insurance company licensed to do business in this state, including fraternal and township mutuals, which neglects to file amended articles of incorporation or related amendments within 30 days after date of approval by ~~shareholders or members of the company~~ shall be subject to a penalty of \$25 for each day in default, provided that foreign insurers shall be allowed 60 days in which to file.

If after 90 days the filings required under this subdivision are still in default, the company shall be given ten days in which to show cause why its license should not be suspended.

Sec. 72. Minnesota Statutes 1982, section 72A.07, is amended to read:

**72A.07 VIOLATIONS OF LAWS RELATING TO AGENTS, PENALTIES.**

Any person, firm, or corporation violating, or failing to comply with, any of the provisions of section 60A.17 and any person who acts in any manner in the negotiation or transaction of unlawful insurance with an insurance company not licensed to do business in the state, or who, as principal or agent, violates any provision of law relating to the negotiation or effecting of contracts of insurance, shall be guilty of a misdemeanor. Upon the filing of a complaint by the commissioner of insurance in a court of competent jurisdiction against any person violating any provisions of this section, the county attorney of the county in which the violation occurred shall prosecute the person. Upon the conviction of any agent ~~or solicitor~~ of any violation of the provisions of section 60A.17, the commissioner shall suspend the authority of the agent ~~or solicitor~~ to transact any insurance business within the state for a period of not less than three months. Any insurer employing an agent and failing to procure a license an appointment, as required by section 60A.17, or allowing the agent to transact business for it within the state before a license an appointment has been procured, shall pay the commissioner, for the use of the state, a penalty of \$25 for each offense. Each sale of an insurance policy by an unlicensed agent who is not appointed by an

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insurance company shall constitute a separate offense, but no insurer shall be required to pay more than \$300 in penalties as a result of the activities of a single unlicensed unappointed agent. In the event of failure to pay a penalty within ten days after notice from the commissioner, the authority of the insurer to do business in this state shall be revoked by the commissioner until the penalty is paid. No insurer whose authority is revoked shall be readmitted until it shall have complied with all the terms and conditions imposed for admission in the first instance. Any action taken by the commissioner under this section shall be subject to review by the district court of the county in which the office of the commissioner is located.

Sec. 73. Minnesota Statutes 1982, section 72A.20, is amended by adding a subdivision to read:

**Subd. 16. DISCRIMINATION BASED ON SEX OR MARITAL STATUS.** Refusing to insure, refusing to continue to insure, refusing to offer or submit an application for coverage, or limiting the amount of coverage available to an individual because of the sex or marital status of the individual; however, nothing in this subsection prohibits an insurer from taking marital status into account for the purpose of defining persons eligible for dependents' benefits.

Sec. 74. Minnesota Statutes 1982, section 72A.23, subdivision 1, is amended to read:

**Subdivision 1. DETERMINATION BY COMMISSIONER; FINDINGS.** Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order under this chapter, he may issue and cause to be served upon the person an order requiring the person to cease and desist from violations of section 72A.19 or 72A.20. The order must be calculated to give reasonable notice of the rights of the person to request a hearing thereon and must state the reasons for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. All hearings shall be conducted in accordance with chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against him upon consideration of the cease and desist order, the allegations of which may be deemed to be true. If, after a hearing, as provided in section 72A.22, the commissioner shall determine that the method of competition or the act or practice in question is defined in section 72A.20 or any rules adopted pursuant to section 72A.19 or 72A.20, and that the person complained of has engaged in that method of competition, act, or

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practice, in violation of sections 72A.17 to 72A.32 he shall reduce his findings to writing and shall issue and cause to be served upon the person charged with the violation an order requiring him to cease and desist from engaging in that method of competition, act or practice, and may impose a civil penalty of not more than \$2,000 for each offense. If the commissioner determines that an insurer has engaged in an act or practice defined in section 72A.20, subdivision 13, the cease and desist order may also require the insurer to write or renew the homeowner's insurance coverage sought by the insured or prospective insured for a specified period of up to three years without cancellation or nonrenewal by the insurer for a reason not specified in section 65A.01; after the specified period expires, cancellation or nonrenewal of the coverage may be made only as permitted by law.

Sec. 75. Minnesota Statutes 1982, section 72B.04, subdivision 7, is amended to read:

Subd. 7. **LICENSE TERM.** Every adjuster's and public adjuster solicitor's license shall be for a term expiring on ~~December~~ May 31 next following the date of its issuance, and may be renewed for the ensuing calendar year upon the timely filing of an application for renewal.

Sec. 76. Minnesota Statutes 1982, section 72B.04, subdivision 10, is amended to read:

Subd. 10. **FEES.** A fee of ~~\$10~~ \$20 is imposed for each initial license or temporary permit and ~~\$2~~ \$20 for each renewal thereof or amendment thereto. A fee of ~~\$10~~ \$20 is imposed for each examination taken. A fee of ~~\$2~~ \$20 is imposed for the registration of each non-licensed adjuster who is required to register under section 72B.06. All fees shall be transmitted to the commissioner and shall be payable to the state treasurer. If a fee is paid for an examination and if within one year from the date of that payment no written request for a refund is received by the commissioner or the examination for which the fee was paid is not taken, the fee is forfeited to the state of Minnesota.

Sec. 77. Minnesota Statutes 1982, section 79.10, is amended to read:

#### **79.10 REVIEW OF ACTS OF INSURERS.**

The insurance division staff may investigate on the request of any person or on its own initiative the acts of the rating association, an insurer, or an agent that are subject to provisions of ~~sections 79.04 to 79.23~~ chapter 79 and may make findings and recommendations that the commissioner issue an order requiring compliance with the provisions thereof. The proposed findings and recommended order shall be served on all affected parties at the same time that the staff transmits its findings and recommendations to the commissioner. Any party adversely affected by the proposed findings and recommended order may request that a hearing be held concerning the issues raised therein within 15 days after service of the findings and recommended order. This hearing shall be conducted

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as a contested case pursuant to sections 14.01 to 14.70. If a hearing is not requested within the time specified in this section, the proposed findings and recommended order may be adopted by the commissioner as a final order.

Sec. 78. Minnesota Statutes 1983 Supplement, section 79.37, is amended to read:

**79.37 BOARD OF DIRECTORS.**

A board of directors of the reinsurance association is created and is responsible for the operation of the reinsurance association consistent with the plan of operation and sections 79.34 to 79.42. The board consists of 13 directors and the commissioners of insurance and labor and industry who shall be ex officio members. Four members of the board directors shall represent insurers, six members of the board directors shall represent employers, at least one, but not more than three, of whom shall represent self-insurers; and three members of the board directors shall represent employees. Members of the reinsurance association shall elect the insurer directors, who represent insurers and the commissioner of insurance and commerce shall appoint the employer directors who represent employers and employee directors from a list presented to the commissioner by the workers' compensation advisory council established in chapter 175, employees for the terms authorized in the plan of operation. Each board member director is entitled to one vote. Terms of the directors shall be staggered so that the terms of all the directors do not expire at the same time and so that a director does not serve a term of more than four years. The board shall select a chairman and other officers it deems appropriate.

A majority of the board directors currently holding office constitutes a quorum, notwithstanding any vacancies. Action may be taken by a majority vote of the directors present.

Sec. 79. Minnesota Statutes 1982, section 79.39, is amended to read:

**79.39 APPLICABILITY OF CHAPTER 79.**

Subdivision 1. EXAMINATION BY COMMISSIONER. The reinsurance association is subject to all the provisions of this chapter. The commissioner or an authorized representative of the commissioner may visit the reinsurance association at any time and examine, audit, or evaluate the reinsurance association's operations, records and practices. For purposes of this section, "authorized representative of the commissioner" includes employees of the department of commerce or other parties retained by the commissioner.

Subd. 2. COSTS AND EXPENSES. The commissioner may order and the reinsurance association shall pay the costs and expenses of any examination, audit, or evaluation conducted pursuant to subdivision 1.

Sec. 80. Minnesota Statutes 1982, section 176.181, subdivision 2, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **COMPULSORY INSURANCE; SELF-INSURERS.** (1) Every employer, except the state and its municipal subdivisions, liable under this chapter to pay compensation shall insure payment of compensation with some insurance carrier authorized to insure workers' compensation liability in this state, or obtain a written order from the commissioner of insurance exempting the employer from insuring his liability for compensation and permitting him to self-insure the liability. The terms, conditions and requirements governing self-insurance shall be established by the commissioner pursuant to chapter 14. The commissioner of insurance shall also adopt, pursuant to clause (2)(c), rules permitting two or more employers, whether or not they are in the same industry, to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as group self-insurers. With the approval of the commissioner of insurance, any employer may exclude medical, chiropractic and hospital benefits as required by this chapter. An employer conducting distinct operations at different locations may either insure or self-insure the other portion of his operations ~~which may be determined by the commissioner of insurance to be~~ as a distinct and separate risk. An employer desiring to be exempted from insuring his liability for compensation shall make application to the commissioner of insurance, showing his financial ability to pay the compensation, whereupon by written order the commissioner of insurance may make an exemption as he deems proper. The commissioner of insurance may require further statements of financial ability of the employer to pay compensation. Upon ten days written notice the commissioner of insurance may revoke his order granting an exemption, in which event the employer shall immediately insure his liability. As a condition for the granting of an exemption the commissioner of insurance may require the employer to furnish security the commissioner of insurance considers sufficient to insure payment of all claims under this chapter. If the required security is in the form of currency or negotiable bonds, the commissioner of insurance shall deposit it with the state treasurer. In the event of any default upon the part of a self-insurer to abide by any final order or decision of the commissioner of labor and industry directing and awarding payment of compensation and benefits to any employee or the dependents of any deceased employee, then upon at least ten days notice to the self-insurer, the commissioner of insurance may by written order to the state treasurer require him to sell the pledged and assigned securities or a part thereof necessary to pay the full amount of any such claim or award with interest thereon. This authority to sell may be exercised from time to time to satisfy any order or award of the commissioner of labor and industry or any judgment obtained thereon. When securities are sold the money obtained shall be deposited in the state treasury to the credit of the commissioner of insurance and awards made against any such self-insurer by the commissioner of insurance shall be paid to the persons entitled thereto by the state treasurer upon warrants prepared by the commissioner of insurance and approved by the commissioner of finance out of the proceeds of the sale of securities. Where the security is in the form of a surety bond or personal guaranty the commissioner of insurance, at any time, upon at least ten days

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notice and opportunity to be heard, may require the surety to pay the amount of the award, the payments to be enforced in like manner as the award may be enforced.

(2)(a) No association, corporation, partnership, sole proprietorship, trust or other business entity shall provide services in the design, establishment or administration of a group self-insurance plan under rules adopted pursuant to this subdivision unless it is licensed to do so by the commissioner of insurance. 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 shall be granted only when the commissioner of insurance is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner of insurance may issue a license subject to restrictions or limitations, including restrictions or limitations on the type of services which may be supplied or the activities which may be engaged in. The license is for a two year period.

(b) To assure that group self-insurance plans are financially solvent, administered in a fair and capable fashion, and able to process claims and pay benefits in a prompt, fair and equitable manner, entities licensed to engage in such business are subject to supervision and examination by the commissioner of insurance.

(c) To carry out the purposes of this subdivision, the commissioner of insurance may promulgate administrative rules, including emergency rules, pursuant to sections 14.01 to 14.70. These rules may:

(i) establish reporting requirements for administrators of group self-insurance plans;

(ii) establish standards and guidelines to assure the adequacy of the financing and administration of group self-insurance plans;

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

(iv) establish standards, including but not limited to minimum terms of membership in self-insurance plans, as necessary to provide stability for those plans;

(v) establish standards or guidelines governing the formation, operation, administration and dissolution of self-insurance plans; and

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

Sec. 81. Minnesota Statutes 1982, section 176.181, is amended by adding a subdivision to read:

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Subd. 7. PENALTY. Any entity that is self-insured pursuant to subdivision 2, and that knowingly violates any provision of subdivision 2 or any rule adopted pursuant thereto is subject to a civil penalty of not more than \$5,000 for each offense.

Sec. 82. Minnesota Statutes 1982, section 271.01, subdivision 5, is amended to read:

Subd. 5. **JURISDICTION.** The tax court shall have statewide jurisdiction. Except for an appeal to the supreme court or any other appeal allowed under this subdivision, the tax court shall be the sole, exclusive, and final authority for the hearing and determination of all questions of law and fact arising under the tax laws of the state, as defined in this subdivision, in those cases that have been appealed to the tax court and in any case that has been transferred by the district court to the tax court. The tax court shall have no jurisdiction in any case that does not arise under the tax laws of the state or in any criminal case or in any case determining or granting title to real property or in any case that is under the jurisdiction of the probate court. The small claims division of the tax court shall have no jurisdiction in any case dealing with property valuation or assessment for property tax purposes until the taxpayer has appealed the valuation or assessment to the town or city board of equalization and to the county board of equalization, except for those taxpayers whose original assessments are determined by the commissioner of revenue. The tax court shall have no jurisdiction in any case involving an order of the state board of equalization unless a taxpayer contests the valuation of his property. Only the taxes, aids and related matters contained in chapters 60A, 69, 124, 270, 272, 273, 274, 275, 276, 277, 278, 279, 285, 287, 288, 290, 290A, 291, 292, 293, 294, 295, 296, 297, 297A, 297B, 298, 299, 299F, 340, 473, 473F, and 477A shall be considered tax laws of this state subject to the jurisdiction of the tax court. This subdivision shall not be construed to prevent an appeal, as provided by law, to an administrative agency, board of equalization, or to the commissioner of revenue. Wherever used in chapter 271, the term commissioner shall mean the commissioner of revenue, unless otherwise specified.

Sec. 83. Minnesota Statutes 1982, section 299F.21, is amended to read:

**299F.21 FIRE INSURANCE COMPANIES TO PAY COST OF MAINTENANCE.**

Every insurance company, including reciprocals, interinsurance exchanges or Lloyds, doing business in the state, excepting farmers' mutual fire insurance companies and township mutual fire insurance companies, shall hereafter pay to the ~~state treasurer~~ commissioner of revenue on or before March 1 annually, a tax upon its fire premiums or assessments or both, as follows:

A sum equal to one-half of one percent of the gross premiums and assessments, less return premiums, on all direct business received by it in this

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state, or by its agents for it, in cash or otherwise, during the preceding calendar year, including premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise. In the case of a mutual company or reciprocal exchange the dividends or savings paid or credited to members in this state shall be construed to be return premiums. The money so received into the state treasury shall be credited to the general fund.

If the tax prescribed by this section is not paid by March 1, annually, a penalty of ~~ten percent shall accrue on the tax, and thereafter the tax and penalty shall draw interest at the rate of one percent per month until paid penalties and interest as provided in section 290.53, subdivision 1, shall be imposed.~~

Sec. 84. Minnesota Statutes 1982, section 299F.22, is amended to read:

**299F.22 EXAMINATION OF RETURNS; ASSESSMENT; RETURNS.**

The commissioner of ~~insurance~~ revenue shall, as soon as practicable after a return required by section 299F.21 is filed, examine the same and make any investigation or examination of the company's records and accounts that he deems necessary for determining the correctness of the return. The tax computed by him on the basis of the examination and investigation is the tax to be paid by the company. If the tax found due is greater than the amount reported as due on the company'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 state treasurer within ~~30~~ 60 days after notice of the amount and demand for its payment is mailed to the company by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the company on its return which are not paid shall be paid to the ~~state treasurer~~ commissioner of revenue within ~~30~~ 60 days after notice of the amount thereof and demand for payment is mailed to the company by the commissioner. If the amount of the tax found due the commissioner is less than that reported as due on the company's return, the excess shall be refunded to the company in the manner provided by section 299F.26, except that no demand therefor is necessary, if they have already paid the whole of the tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 299F.26, after the expiration of three and one-half years after the filing of the return.

If the commissioner examines returns of a company for more than one year, he 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 sections 299F.22 to 299F.24 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

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by mail to the company at the address given in its return, if any, and if no such address is given, then to the last known address.

Sec. 85. Minnesota Statutes 1982, section 299F.23, is amended to read:

**299F.23 ASSESSMENT, FAILURE TO FILE RETURN; FALSE OR FRAUDULENT RETURN FILED; PENALTIES.**

Subdivision 1. FAILURE TO FILE; FALSE OR FRAUDULENT RETURN. If any company required by section 299F.21 to file any return fails to do so within the time prescribed or makes, wilfully or otherwise, an incorrect, false, or fraudulent return, it shall, on the written demand of the commissioner of insurance revenue, file the return, or corrected return, within ~~30~~ 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 company fails within that time to file the return, or corrected return, the commissioner shall make for it a return or corrected return, from his own knowledge and from the information he can obtain through testimony, or otherwise, and assess a tax on the basis thereof, which tax, less any payments theretofore made on account of the tax for the taxable year covered by the return, shall be paid within ~~ten~~ 60 days after the commissioner has mailed to the company a written notice of the amount thereof and demand for its payment. Any return or assessment made by the commissioner on account of the failure of the company to make a return, or a corrected return, is prima facie correct and valid, and the company has the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Subd. 2. FAILURE TO FILE; PENALTIES AND INTEREST. In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner of revenue in pursuance of law there shall be added to the tax penalties and interest as provided in section 290.53, subdivision 2.

Subd. 3. INTENT TO EVADE TAX; PENALTY. If any company 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.

Subd. 4. NEGLIGENCE OR INTENTIONAL DISREGARD; PENALTY. If any part of any additional assessment is due to negligence or intentional disregard of the statute or a rule (but without intent to defraud), there shall be added to the tax a penalty as provided in section 290.53, subdivision 3a.

Sec. 86. Minnesota Statutes 1982, section 299F.24, is amended to read:

**299F.24 COLLECTION OF TAX.**

The tax required to be paid by section 299F.21, may be collected in any ordinary action at law by the commissioner of insurance revenue against the

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company. In any action commenced pursuant to this section, upon the filing of an affidavit of default, the clerk 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.

Sec. 87. Minnesota Statutes 1982, section 299F.26, subdivision 1, is amended to read:

Subdivision 1. **PROCEDURE, TIME LIMIT, APPROPRIATION.** A company which has paid, voluntarily or otherwise, or from which there was collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of insurance revenue a claim for a refund of the excess. Except as provided in subdivision 4, no claim shall be entertained unless filed within two years after the tax was paid or collected, or within three and one-half years from the filing of the return, whichever period is the longer or refund shall be allowed or made after 3-1/2 years from the date prescribed for filing the return (plus any extension of time granted for filing the return but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the company. For this purpose a return or amended return claiming an overpayment constitutes a claim for refund.

Upon the filing of a claim the commissioner shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof to the company at the address stated upon the return. If such claim is allowed in whole or in part, the commissioner shall issue his certificate for the refundment of the excess paid by the company, with interest at the rate of ~~two~~ six percent per annum computed from the date of the payment ~~or collection~~ of the tax until the date the refund is paid ~~or the credit is made~~ to the company, and 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.

Sec. 88. Minnesota Statutes 1982, section 299F.26, subdivision 2, is amended to read:

Subd. 2. **DENIAL OF CLAIM, COURT PROCEEDINGS.** If the claim is denied in whole or in part, the ~~company may commence an action against the commissioner to recover any overpayments of taxes claimed to be refundable but for which the commissioner has issued no certificate of refund-~~ ment commissioner of revenue shall mail an order of denial to the company in the manner prescribed in section 299F.22. An appeal from this order may be taken to the Minnesota tax court in the manner prescribed in section 271.06, or the company may commence an action against the commissioner to recover the denied overpayment. The action may be brought in the district court of the district in which lies the county of its principal place of business, or in the district court for Ramsey county. The action in the district court must be commenced

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within 18 months following the mailing of the order of denial to the company. If a claim for refund is filed by a company and no order of denial is issued within six months of the filing, the company may commence an action in the district court as in the case of a denial, but the action must be commenced within two years of the date that the claim for refund was filed.

Sec. 89. Minnesota Statutes 1982, section 424.165, subdivision 1, is amended to read:

Subdivision 1. **SURCHARGE.** When the balance in the special fund of any firefighter's relief association in any city of the second class is less than \$50,000 as determined by any such association's board of trustees, which fact shall be duly certified to by the state auditor, such board of trustees may thereupon file its duly verified petition for relief, accompanied by such certificate, with the commissioner of insurance revenue. The commissioner of insurance revenue shall thereupon order and direct a surcharge to be collected of two percent of the fire, lightning and sprinkler leakage gross premiums, less return premiums, on all direct business received by any foreign or domestic fire insurance company on property in such city of the second class, or by its agents for it, in cash or otherwise, until the balance in the special funds of such relief association amounts to \$50,000 and for a period of 15 days thereafter. As soon as the balance in said special fund amounts to \$50,000 the board of trustees of such relief association shall certify that fact to the commissioner of insurance revenue and the commissioner of insurance revenue shall forthwith issue his order ordering and directing that the collection of such surcharge shall be discontinued after the expiration of said 15-day period and shall forthwith mail a copy of the order last mentioned to each insurance company affected thereby. Said surcharge shall be due and payable from such companies to the state treasurer in semi-annual installments on June 30 and December 31 of each calendar year to be kept by the state treasurer in a separate fund and if not paid within 30 days after such dates a penalty of three percent shall accrue thereon and thereafter such sum and penalty shall draw interest at the rate of one percent per month until paid.

Sec. 90. Minnesota Statutes 1982, section 574.32, is amended to read:  
574.32 **NOTICE.**

The commissioner of insurance commerce or the county auditor in whose office the written notice is filed shall, upon receipt of such written notice, mail one copy of the same, by certified mail, to the principal contractor, at his last known address, and to each of the sureties on his bond, at their last known addresses, and the claimant shall, at the time he files the written notice, furnish the commissioner of insurance or the county auditor in whose office the notice is filed, at least ~~two~~ three copies of the notice. The commissioner of insurance commerce or county auditor with whom the notice is filed shall be entitled to charge a fee of \$5 \$15 for filing the notice and may also charge a fee to cover the cost of mailing the copies as herein provided. The failure of the commissioner of

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insurance or the county auditor with whom the notice is filed to mail these copies as herein provided, shall in no way affect the validity of the claim or the right of the claimant to maintain an action thereon.

**Sec. 91. TRANSFER OF FUNCTIONS.**

Effective July 1, 1983, the audit and direct aids section of the insurance division of the department of commerce is transferred to the department of revenue. The amount of \$144,100 and a complement of five positions shall be transferred from the department of commerce to the department of revenue for fiscal year 1985 to implement the transfer.

**Sec. 92. APPROPRIATION.**

The sum of \$62,400 is appropriated from the general fund to the department of commerce for the fiscal year ending June 30, 1985.

The approved complement of the department is increased by two.

The appropriation is for the purpose of paying for the increased complement and the expenses related to the processing of forms and rates filed with the department.

**Sec. 93. ATTORNEY GENERAL.**

The approved complement of the attorney general for general positions is increased by one. \$31,000 is added to the appropriation in Laws 1981, chapter 356, section 14, and is available until June 30, 1985.

**Sec. 94. REPEALER.**

(a) Minnesota Statutes 1982, sections 65B.15, subdivision 3; and 65B.48, subdivision 8, are repealed.

(b) Minnesota Statutes 1982, section 69.031, subdivision 6, is repealed.

**Sec. 95. EFFECTIVE DATE.**

Sections 7, 10 to 27, 40, 41, 67 to 70, 82 to 89, 91, and 94, paragraph (b) are effective for taxable years beginning after June 30, 1983, except as otherwise specifically provided. The remaining sections, except section 92, are effective the day following final enactment.

Approved April 26, 1984

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**CHAPTER 593 — H.F.No. 1815**

*An act relating to taxation; property; eliminating obsolete language; making technical changes; and repealing obsolete provisions; amending Minnesota Statutes 1982, sections 272.02, subdivisions 2, 3, and 5; 272.03, subdivision 2; 272.20; 272.21; 272.32; 272.37; 272.64; 273.05, subdivision 1; 273.061, subdivision 2; 273.08; 273.1105, subdivision 5; 273.111, subdivisions 8 and 11; 273.115, subdivision 5; 273.116, subdivisions 1 and 5;*

Changes or additions are indicated by underline, deletions by ~~strikeout~~.