Sec. 17. **EFFECTIVE DATE.**

Section 8, subdivision 2, is effective July 1, 1989, but facilities subject to section 8, subdivision 2, are not required to report under United States Code, title 42, section 11021, until October 17, 1989, or under United States Code, title 42, section 11022, until March 1, 1990.

Section 11 is effective August 1, 1989, and applies to crimes committed on or after that date.

Section 16, subdivision 2, is effective the day following final enactment.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:20 p.m.

CHAPTER 316—H.F.No. 162

An act relating to insurance; regulating insurance information collection, use, disclosure, access, and correction practices; requiring reasons for adverse underwriting decisions; amending Minnesota Statutes 1988, section 72A.20, subdivision 11; proposing coding for new law in Minnesota Statutes, chapter 72A.

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

Section 1. Minnesota Statutes 1988, section 72A.20, subdivision 11, is amended to read:

Subd. 11. **APPLICATION TO CERTAIN SECTIONS.** Violating any provision of the following sections of this chapter not set forth in this section shall constitute an unfair method of competition and an unfair and deceptive act or practice: sections 72A.12, subdivisions 2, 3, and 4, 72A.16, subdivision 2, 72A.03 and 72A.04, 72A.08, subdivision 1, as modified by ~~section~~ sections 72A.08, subdivision 4, 72A.201, sections 2 to 17, and 65B.13.

Sec. 2. **[72A.49] SHORT TITLE.**

Sections 2 to 17 may be cited as the "Minnesota insurance fair information reporting act."

Sec. 3. **[72A.491] DEFINITIONS.**

Subdivision 1. **APPLICATION.** For the purposes of sections 2 to 17, the following terms have the meanings given them.

Subd. 2. **ADVERSE UNDERWRITING DECISION.** "Adverse underwriting decision" means any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten:

(1) denial, in whole or in part, of coverage that was requested in writing to the insurer;

(2) termination or reduction of insurance coverage or policy;

(3) failure of an insurance agent to apply for coverage with a specific insurer that the agent represents and that is specifically requested by an applicant;

(4) placement by an insurer or insurance agent of a risk with a residual market mechanism, an unauthorized insurer, or an insurer that specializes in substandard risks;

(5) charging a higher rate on the basis of information that differs from that which the applicant or policyholder furnished for property or casualty coverage;

(6) an offer to insure at higher than standard rates for life, health, or disability coverage; or

(7) the rescission of a policy.

Subd. 3. **AFFILIATE OR AFFILIATED.** "Affiliate" or "affiliated" means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

Subd. 4. **APPLICANT.** "Applicant" means any person who seeks to contract for insurance coverage from an insurer.

Subd. 5. **CONSUMER REPORT.** "Consumer report" means any written, oral, or other communication of information bearing on a person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with an insurance transaction.

Subd. 6. **CONSUMER REPORTING AGENCY.** "Consumer reporting agency" means any person who:

(1) regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee;

(2) obtains information primarily from sources other than insurers; and

(3) furnishes consumer reports to other persons.

Subd. 7. **CONTROL.** "Control," "controlled by," or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

Subd. 8. **HEALTH CARE INSTITUTION.** "Health care institution" means any facility or institution that is licensed to provide health care services to natural persons.

Subd. 9. **HEALTH PROFESSIONAL.** "Health professional" means any person licensed or certified to provide health care services to natural persons.

Subd. 10. **HEALTH RECORD INFORMATION.** "Health record information" means personal information that:

(1) relates to an individual's physical or mental condition, health history, or health treatment; and

(2) is obtained from a health professional or health care institution, from the individual, or from the individual's spouse, parent, legal guardian, or other person.

Subd. 11. **INDIVIDUAL.** "Individual" means any natural person who:

(1) in the case of property or casualty insurance is a past, present, or proposed named insured or certificate holder;

(2) in the case of life, health, or disability insurance is a past, present, or proposed principal insured or certificate holder;

(3) is a past, present, or proposed policy owner;

(4) is a past or present applicant;

(5) is a past or present claimant; or

(6) derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this act.

Subd. 12. **INSURANCE-SUPPORT ORGANIZATION.** (a) "Insurance-support organization" means any person who regularly engages, in whole or in part, in the practice of assembling or collecting information about persons for the primary purpose of providing the information to an insurer or insurance agent for insurance transactions, including:

(1) the furnishing of consumer reports or investigative consumer reports to an insurer or insurance agent for use in connection with an insurance transaction; and

(2) the collection of personal information from insurers, insurance agents, or other insurance-support organizations to detect or prevent fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity.

(b) Insurance-support organizations do not include insurance agents, government institutions, insurers, health care institutions, or health professionals.

Subd. 13. **INSURANCE TRANSACTION.** "Insurance transaction" means any transaction that involves:

(1) the determination of an individual's eligibility for an insurance coverage, benefit, or payment; or

(2) the servicing of an insurance application, policy, contract, or certificate.

Subd. 14. **INSURER.** "Insurer" means any insurance company, risk retention group as defined under section 60E.02, service plan corporation as defined under section 62C.02, health maintenance organization as defined under section 62D.02, fraternal benefit society regulated under chapter 64B, township mutual company regulated under chapter 67A, joint self-insurance plan or multiple employer trust regulated under chapter 60F, 62H, or section 471.617, subdivision 2, and persons administering a self-insurance plan as defined under section 60A.23, subdivision 8, paragraph (2), clauses (a) and (d).

Subd. 15. **INSURER THAT SPECIALIZES IN SUBSTANDARD RISKS.** "Insurer that specializes in substandard risks" means an insurer whose rates and market orientation are directed at risks other than preferred or standard risks.

Subd. 16. **INVESTIGATIVE CONSUMER REPORT.** "Investigative consumer report" means all or part of a consumer report in which information about a person's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning these items of information.

Subd. 17. **PERSONAL INFORMATION.** "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. The term includes the individual's name and address and health record information, but does not include privileged information. Personal information does not include health information maintained by a health maintenance organization as defined under section 62D.02, subdivision 4, in its capacity as a health provider.

Subd. 18. **POLICYHOLDER.** "Policyholder" means any individual who is a present named insured, a present policyowner, or a present group certificate holder.

Subd. 19. **PRIVILEGED INFORMATION.** (a) "Privileged information" means any individually identifiable information that:

(1) relates to a claim for insurance benefits or a civil or criminal proceeding; or

(2) is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding.

(b) Information otherwise meeting the definition of privileged information under paragraph (a) must be considered personal information if it is disclosed in violation of section 14.

Subd. 20. **RESIDUAL MARKET MECHANISM.** "Residual market mechanism" means an association, organization, or other entity created under the laws of this state to provide insurance coverage to any person who is unable to obtain coverage through ordinary methods in the normal insurance markets.

Subd. 21. **TERMINATION OF INSURANCE COVERAGE OR POLICY.** "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

Subd. 22. **UNAUTHORIZED INSURER.** "Unauthorized insurer" means an insurance company that has not been granted a certificate of authority by the commissioner to transact the business of insurance in this state.

Sec. 4. **[72A.492] SCOPE.**

Subdivision 1. **COVERED POLICIES.** The obligations imposed by sections 2 to 17 apply to insurers, insurance agents, and insurance-support organizations that:

(1) collect, receive, or maintain information in connection with insurance transactions that pertains to persons who are residents of this state; or

(2) engage in insurance transactions with applicants, individuals, or policyholders who are residents of this state.

Subd. 2. **COVERED PERSONS.** The rights granted by sections 2 to 17 extend to:

(1) a person who is a resident of this state and is the subject of information collected, received, or maintained in connection with an insurance transaction; and

(2) a person who is a resident of this state and engages in or seeks to engage in an insurance transaction.

Subd. 3. **EXCEPTIONS.** (a) Sections 2 to 17 do not apply to information collected from the public records of a governmental authority and maintained by an insurance company or its representatives to insure the title to real property located in this state.

(b) Nothing in sections 2 to 17 gives a patient access to the health records pertaining to the patient maintained by the patient's health provider, or gives the patient the right to alter or amend those health records, unless otherwise provided by law.

(c) Sections 2 to 17 do not apply to any insurance transactions involving property and casualty insurance primarily for business or professional needs.

Sec. 5. **[72A.493] OBTAINING INFORMATION BY IMPROPER MEANS.**

An insurer, insurance agent, or insurance-support organization must not obtain information or authorize another person to obtain information in connection with an insurance transaction by:

(1) pretending to be someone he or she is not;

(2) pretending to represent a person he or she is not in fact representing;

(3) misrepresenting the true purpose of the interview; or

(4) refusing to identify himself or herself upon request.

Sec. 6. **[72A.494] NOTICE.**

Subdivision 1. **REQUIRED.** Each insurer or insurance agent shall provide a notice relating to information practices to each applicant or policyholder in the manner and at the time required by this section.

Subd. 2. **EXEMPTION.** A notice is not required to be provided under this section for:

(1) a group policy or contract that is not individually underwritten; or

(2) a renewal, reinstatement, or a change in benefits for a policy or contract if no personal information is to be collected other than from the applicant or policyholder, or from public records.

Subd. 3. **TIMING.** (a) In the case of an application for insurance coverage, the notice must be provided to the applicant or policyholder no later than the time application is made for the coverage, renewal, reinstatement, or change in benefits.

(b) If personal information is to be collected only from the applicant or from public records, the notice may be provided at the time of delivery of the policy or the certificate.

Subd. 4. **CONTENT OF NOTICE.** The notice required by this section must be in writing and state:

(1) whether personal information may be collected from persons other than the individual or individuals proposed for coverage;

(2) the types of personal information that may be collected and the types of sources and investigative techniques that may be used to collect the information;

(3) the types of disclosures of personal information that may be made under section 13 and the circumstances under which the disclosures may be made without prior authorization; except that only those circumstances which occur with such frequency as to indicate a general business practice must be described;

(4) a description of the rights established under sections 9 and 10 and the manner in which those rights may be exercised; and

(5) that information obtained from a report prepared by an insurance-support organization may be retained by the insurance-support organization and disclosed to other persons.

Subd. 5. **ABBREVIATED NOTICE.** In lieu of the notice required under subdivision 4, the insurer or insurance agent may provide an abbreviated notice informing the applicant or policyholder that:

(1) personal information may be collected from persons other than the person or persons proposed for coverage;

(2) the information collected by the insurer or insurance agent may in certain circumstances be disclosed to third parties without authorization;

(3) the person has a right to see their personal records and correct personal information collected; and

(4) the person will be furnished the detailed notice required under subdivision 4 upon request.

Subd. 6. **OTHER COMPANIES OR AGENCIES ACTING ON ITS BEHALF.** The obligations imposed by this section upon an insurer or insurance agent may be satisfied by another insurer or insurance agent authorized to act on its behalf.

Sec. 7. **[72A.495] MARKETING AND RESEARCH SURVEYS.**

An insurer or insurance agent shall clearly specify any questions designed to obtain information solely for marketing or research purposes from an individual in connection with an insurance transaction, and state that responses to the questions are not required to obtain coverage.

Sec. 8. **[72A.496] INVESTIGATIVE CONSUMER REPORTS.**

Subdivision 1. **NOTICE.** An insurer, insurance agent, or insurance-support organization must not prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement, or a change in insurance benefits, unless the insurer or insurance agent informs the person:

(1) that the individual may request to be interviewed in connection with the preparation of the investigative consumer report; and

(2) that, upon a request pursuant to section 9, the individual is entitled to receive a copy of the investigative consumer report.

Subd. 2. **REPORTS PREPARED BY INSURERS.** If an investigative consumer report is to be prepared by an insurer or insurance agent, the insurer or

insurance agent shall institute reasonable procedures to conduct a personal interview requested by an individual.

Subd. 3. **REPORTS PREPARED BY INSURANCE-SUPPORT ORGANIZATIONS.** If an investigative consumer report is to be prepared by an insurance-support organization, the insurer or insurance agent desiring the report shall inform the insurance-support organization whether a personal interview has been requested by the individual. The insurance-support organization shall institute reasonable procedures for conducting an interview, if requested.

Sec. 9. **[72A.497] ACCESS TO PERSONAL INFORMATION.**

Subdivision 1. **REQUEST.** (a) If an individual, after proper identification, submits a written request to an insurer, insurance agent, or insurance-support organization for access to personal information about the individual, the insurer, insurance agent, or insurance-support organization shall within 30 business days from the date the request is received:

(1) inform the individual of the nature and substance of the personal information that they possess in writing, by telephone, or by other oral communication, whichever the insurer, insurance agent, or insurance-support organization elects;

(2) permit the individual to see and copy, in person, the personal information pertaining to that person;

(3) permit the individual to obtain by mail a copy of all of the personal information or a reasonably described portion thereof, whichever the individual requests;

(4) disclose to the individual the identity of those persons to whom the insurer, insurance agent, or insurance-support organization has disclosed the personal information within two years before the request; and

(5) provide the individual with a summary of the procedures by which the person may request correction, amendment, or deletion of personal information, as provided under section 10.

(b) If the personal information is in coded form, an accurate translation in plain language must be provided in writing.

(c) If credit information is requested that federal law prohibits an insurer to disclose, the insurer must disclose that the individual has the right to receive the credit information from the credit reporting agency. The insurer must disclose the name, address, and telephone number of the credit reporting agency that supplied the insurer with the credit information.

Subd. 2. **SOURCE.** Any personal information collected must specifically identify the source of the information.

Subd. 3. **HEALTH RECORDS.** (a) Health record information requested under subdivision 1 that has been supplied by a health care institution or a health professional must provide the identity of the health professional or health care institution that supplied the information. The health record information must be provided either directly to the individual or to a health professional designated by the person who is licensed to provide health care with respect to the condition to which the information relates, whichever the individual elects. If the information is provided to a designated health professional, the insurer, insurance agent, or insurance-support organization shall notify the person, at the time of the disclosure, that the information has been provided to the health professional.

(b) If a health professional or a health care institution has provided health information to an insurer, insurance-support organization, or insurance agent that the health professional or health care institution has determined and indicates in writing that the release of the health record information is detrimental to the physical or mental health of the person, or is likely to cause the individual to inflict self-harm or to harm another, the insurer, insurance agent, or insurance-support organization may provide that information directly to the individual only with the approval of the health professional with treatment responsibility for the condition to which the information relates. If approval is not obtained, the information must be provided to the health professional designated by the individual.

(c) Nothing in this section may reduce or affect a patient's rights under section 144.335.

Subd. 4. **FEE.** An insurer, insurance agent, or insurance-support organization may charge a reasonable fee, not to exceed the actual costs, to copy information provided under this section. If an individual is requesting information as a result of an adverse underwriting decision, the insurer, insurance agent, or insurance-support organization must provide the information free of any charge.

Subd. 5. **OTHER COMPANIES OR AGENTS ACTING ON ITS BEHALF.** The obligations imposed by this section upon an insurer or insurance agent may be satisfied by another insurer or insurance agent authorized to act on its behalf. With respect to the copying and disclosure of personal information under a request under subdivision 1, an insurer, insurance agent, or insurance-support organization may make arrangements with an insurance-support organization or a consumer reporting agency to copy and disclose personal information on its behalf.

Subd. 6. **PRIVILEGED INFORMATION.** The rights granted under this section and section 10 do not extend to privileged information.

Sec. 10. **[72A.498] CORRECTION, AMENDMENT, OR DELETION OF PERSONAL INFORMATION.**

Subdivision 1. **PROCEDURE.** Within 30 business days from the date of

receipt of a written request from an individual to correct, amend, or delete any personal information about the person within its possession, an insurer, insurance agent, or insurance-support organization shall either:

(1) correct, amend, or delete the portion of the personal information in dispute; or

(2) notify the individual of its refusal to make the correction, amendment, or deletion, the reasons for the refusal, and the person's right to file a statement as provided in subdivision 3, and the individual's right to appeal to the commissioner under subdivision 5.

Subd. 2. **NOTICE.** If the insurer, insurance agent, or insurance-support organization corrects, amends, or deletes disputed personal information upon request of an individual or as ordered by the commissioner, the insurer, insurance agent, or insurance-support organization shall notify the person in writing and provide the correction, amendment, or fact of deletion to:

(1) any person specifically designated by the individual who may have within the preceding two years received the personal information;

(2) any insurance-support organization whose primary source of personal information is insurers, if the insurance-support organization has systematically received the personal information from the insurer within the preceding seven years, provided that the correction, amendment, or fact of deletion need not be provided to an insurance-support organization if the insurance-support organization no longer maintains personal information about the individual; and

(3) any insurance-support organization that provided the personal information that has been corrected, amended, or deleted.

Subd. 3. **STATEMENT.** If the insurer, insurance agent, or insurance-support organization refuses to correct, amend, or delete disputed personal information, the individual must be permitted to file with the insurer, insurance agent, or insurance-support organization a concise statement setting forth what the person thinks is the correct, relevant, or fair information and stating the reasons why the individual disagrees with the insurer's, insurance agent's, or insurance-support organization's refusal to correct, amend, or delete disputed personal information.

Subd. 4. **DISPUTED INFORMATION.** In the event an individual files a statement described in subdivision 3, the insurer, insurance agent, or insurance-support organization shall:

(1) file the statement with the disputed personal information and provide a means by which anyone reviewing the disputed personal information will be made aware of the individual's statement and have access to it;

(2) in any subsequent disclosure by the insurer, insurance agent, or insurance-support organization of the disputed personal information, clearly identify the matter or matters in dispute and provide the individual's statement along with the personal information being disclosed; and

(3) furnish the statement to the persons and in the manner specified in subdivision 2.

Subd. 5. **APPEAL.** (a) If an insurer, insurance-support organization, or insurance agent refuses to correct, amend, or delete disputed personal information, the individual may file an appeal with the commissioner.

(b) The commissioner may, after providing the insurer, insurance-support organization, or insurance agent an opportunity for a hearing, order the insurer, insurance-support organization, or insurance agent to amend, correct, or delete disputed personal information if the commissioner finds that the personal information kept by the insurer, insurance-support organization, or insurance agent is in error. If the commissioner finds that the disputed personal information maintained by the insurer, insurance agent, or insurance-support organization is correct, the insurer, insurance agent, or insurance-support organization may delete from the individual's records any statement filed with them by that individual relating to the disputed information under subdivision 3.

Sec. 11. **[72A.499] REASONS FOR ADVERSE UNDERWRITING DECISIONS.**

Subdivision 1. **NOTICE AND INFORMATION.** In the event of an adverse underwriting decision, the insurer or insurance agent responsible for the decision shall provide in writing to the applicant, policyholder, or individual proposed for coverage:

(1) the specific reason or reasons for the adverse underwriting decision, a summary of the person's rights under sections 9 and 10, and that upon request the person may receive the specific items of personal information that support those reasons and the specific sources of the information; or

(2) the specific reason or reasons for the adverse underwriting decision, the specific items of personal and privileged information that support those reasons, the names and addresses of the sources that supplied the specific items of information specified, and a summary of the rights established under sections 9 and 10.

Subd. 2. **HEALTH REASONS.** If the specific reason for an adverse underwriting decision is based on health record information, the insurer may, in lieu of providing the specific reason to the individual under subdivision 1, provide the individual with the specific source of the adverse underwriting decision referring to the specific date, page, and line of the information received from a health professional or health care institution. If the insured has been informed of the condition indicated by their health provider and is unable to determine the reason for the adverse underwriting decision, then the insurer must provide the specific reason to the individual. The insurer must provide the specific reason for the adverse underwriting decision to a health professional designated by the individual, if requested either orally or in writing by the individual.

Subd. 3. **EXEMPTION.** (a) This section is not applicable to group policies or contracts, except for group policies that are individually underwritten. For group policies or contracts that are individually underwritten, the notice required under this section must be given to the individual or individuals in the group whose personal information resulted in the adverse underwriting decision.

(b) If a policy or contract is terminated on a class or statewide basis, or an insurance coverage is declined solely because the coverage is unavailable on a class or statewide basis, the insurer or agent is not required to provide the notice required under this section provided that the applicant or policyholder is provided with the specific reason for the termination or declination of coverage.

Subd. 4. **PRIVILEGED INFORMATION.** (a) An insurer or insurance agent is not required to provide particular, specific items of privileged information under subdivision 1 if it has a reasonable suspicion, based upon that specific information, that the applicant, policyholder, or person proposed for coverage has engaged in criminal activity, fraud, material misrepresentation, or material nondisclosure. If an insurer or insurance agent does not provide the specific items of information because the information is privileged under this subdivision, the insurer or insurance agent must notify the applicant, policyholder, or individual proposed for coverage that the specific items of information are privileged and of the person's right to appeal to the commissioner under this subdivision.

(b) If a person is not provided with the specific items of information relating to an adverse underwriting decision because the information is privileged under this subdivision, the person may request that the commissioner review the information. The commissioner may then order the insurer or insurance agent to supply the privileged information to the commissioner. If the commissioner determines that the information is not privileged under this subdivision, the commissioner shall order the insurer or insurance agent to provide the information to the applicant, policyholder, or person proposed for coverage.

Subd. 5. **HEALTH RECORDS INFORMATION.** Specific items of health record information supplied by a health care institution or health professional, and the identity of the health professional or health care institution that supplied the information, must be disclosed in the manner required under section 9, subdivision 3.

Subd. 6. **OTHER COMPANIES OR AGENTS ACTING ON THEIR BEHALF.** The obligations imposed by this section upon an insurer or insurance agent may be satisfied by another insurer or insurance agent authorized to act on its behalf.

Sec. 12. **[72A.50] PREVIOUS ADVERSE UNDERWRITING DECISIONS.**

Subdivision 1. **ADDITIONAL INFORMATION REQUIRED.** An insurer, insurance agent, or insurance-support organization must not seek information in

connection with an insurance transaction concerning any previous adverse underwriting decision experienced by a person, or any previous insurance coverage obtained by a person through a residual market mechanism, unless the inquiry also requests the reasons for the previous adverse underwriting decision or the reasons why insurance coverage was previously obtained through a residual market mechanism.

Subd. 2. **PROHIBITIONS.** An insurer or insurance agent may not base an adverse underwriting decision, in whole or in part, on:

(1) the fact of a previous adverse underwriting decision or the fact that a person previously obtained insurance coverage through a residual market mechanism, provided that an insurer or insurance agent may base an adverse underwriting decision on further information obtained from an insurer or insurance agent responsible for a previous adverse underwriting decision; or

(2) personal information received from an insurance-support organization whose primary source of information is insurers, provided that an insurer or insurance agent may base an adverse underwriting decision on further personal information obtained as the result of information received from the insurance-support organization.

Sec. 13. **[72A.501] DISCLOSURE AUTHORIZATION.**

Subdivision 1. **REQUIREMENT; CONTENT.** An authorization used by an insurer, insurance-support organization, or insurance agent to disclose or collect personal information must be in writing and must meet the following requirements:

(1) is written in plain language;

(2) is dated;

(3) specifies the types of persons authorized to disclose information about the person;

(4) specifies the nature of the information authorized to be disclosed;

(5) names the insurer or insurance agent and identifies by generic reference representatives of the insurer to whom the person is authorizing information to be disclosed;

(6) specifies the purposes for which the information is collected; and

(7) specifies the length of time the authorization remains valid.

Subd. 2. **APPLICATION.** (a) If the authorization is signed to collect information in connection with an application for a property and casualty insurance policy, a policy reinstatement, or a request for a change in benefits, the authorization must not remain valid for longer than one year from the date the authori-

zation is signed or the date the insurer grants or denies coverage, reinstatement, or change in benefits, whichever is sooner.

(b) If the authorization is signed to collect information in connection with an application for a life, disability, and health insurance policy or contract, reinstatement, or request for change in benefits, the authorization may not remain valid for longer than 26 months from the date the authorization is signed.

Subd. 3. **CLAIMS.** If the authorization is signed to collect information in connection with a claim for benefits under an insurance policy, the authorization must not remain valid for longer than:

(1) the term of coverage of the policy, if the claim is for a health insurance benefit; or

(2) the duration of the claim, if the claim is for a claim other than for a health insurance benefit.

Subd. 4. **AUTHORIZATION; NONINSURERS.** If an authorization is submitted to an insurer, insurance-support organization, or insurance agent by a person other than an insurer, insurance-support organization, or insurance agent, the authorization must be dated, signed by the person, and obtained one year or less before the date a disclosure is sought.

Sec. 14. **[72A.502] DISCLOSURE OF INFORMATION; LIMITATIONS AND CONDITIONS.**

Subdivision 1. **REQUIREMENT.** An insurer, insurance agent, or insurance-support organization must not disclose any personal or privileged information about a person collected or received in connection with an insurance transaction without the written authorization of that person except as authorized by this section. An insurer, insurance agent, or insurance-support organization must not collect personal information about a policyholder or an applicant not relating to a claim from sources other than public records without a written authorization from the person.

Subd. 2. **PREVENTION OF FRAUD.** Personal or privileged information may be disclosed without a written authorization to another person if the information is limited to that which is reasonably necessary to detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with an insurance transaction, and that person agrees not to disclose the information further without the individual written authorization unless the further disclosure is otherwise permitted by this section if made by an insurer, insurance agent, or insurance-support organization.

Subd. 3. **HEALTH CARE INSTITUTIONS AND PROFESSIONALS.** Personal or privileged information may be disclosed without a written authorization to a health care institution or health professional for the purpose of

verifying insurance coverage benefits, informing a person of a health problem of which the person must not be aware, or conducting an operations or services audit, if the information is only disclosed that is reasonably necessary to accomplish the purposes under this subdivision.

Subd. 4. **REGULATORY AUTHORITY.** Personal or privileged information may be disclosed without a written authorization to an insurance regulatory authority.

Subd. 5. **OTHER GOVERNMENTAL AUTHORITIES.** Personal or privileged information may be disclosed without a written authorization to a law enforcement or other governmental authority if:

(1) the disclosure is to protect the interests of the insurer, agent, or insurance-support organization in preventing or prosecuting the perpetration of fraud upon it; or

(2) the insurer, agent, or insurance-support organization reasonably believes that illegal activities have been conducted by the individual.

Subd. 6. **OTHER LAWS OR ORDER.** Personal or privileged information may be disclosed without a written authorization if permitted or required by another law or in response to a facially valid administrative or judicial order, including a search warrant or subpoena.

Subd. 7. **ACTUARIAL AND RESEARCH STUDIES.** Personal or privileged information may be disclosed without a written authorization to conduct actuarial or research studies if:

(1) no individual may be identified in the actuarial or research report;

(2) materials allowing an individual to be identified are returned or destroyed as soon as they are no longer needed; and

(3) the actuarial or research organization agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance company, agent, or insurance-support organization.

Subd. 8. **AFFILIATE COMPANIES.** Personal or privileged information may be disclosed without a written authorization to an affiliate whose only use of the information will be in connection with an audit of the insurer or agent or the marketing of an insurance product or service, provided the affiliate agrees to not disclose the information for any other purpose or to unaffiliated persons.

Subd. 9. **GROUP POLICYHOLDER.** Personal or privileged information may be disclosed with written authorization to a group policyholder only to report claims experience or conduct an audit of the insurer's or agent's operations or services, if the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit.

Subd. 10. **GOVERNMENTAL LICENSING BOARD.** Personal or privileged information may be disclosed without a written authorization to a governmental professional licensing or regulatory board to review the service or conduct of a health care institution or health professional that the insurer has reason to believe has violated its licensing act or engaged in the unlawful practice of a licensed professional.

Subd. 11. **PROFESSIONAL PEER REVIEW.** Subject to the terms of a contract between an insurer and a health professional or health care institution, personal or privileged information may be disclosed without a written authorization to a professional peer review organization to review the service or conduct of a health care institution or health professional.

Subd. 12. **NOTICE.** Whenever an insurer, insurance agent, or insurance-support organization discloses personal or privileged information about a person that requires the written authorization of that person under this section, the insurer, insurance agent, or insurance-support organization shall notify that person in writing within ten days of the date the information was disclosed. The notification must specify the identity of the person to whom information was disclosed and the nature and substance of the information that was disclosed. A notice is not required to be given under this subdivision if an insurer is disclosing personal information for underwriting purposes to another insurer, or to an insurance-support organization if the person had signed an authorization authorizing the disclosure.

Sec. 15. **[72A.503] PRIVATE REMEDIES.**

Subdivision 1. **LIABILITY.** Any insurer, insurance agent, or insurance-support organization that violates sections 2 to 17 is liable to the aggrieved person for that violation to the same extent as civil remedies are otherwise allowed in section 13.08, subdivision 1, for violations of chapter 13, by a political subdivision, responsible authority, statewide system, or statewide agency.

Subd. 2. **EQUITABLE RELIEF.** Upon application by an aggrieved person, a court of competent jurisdiction may grant equitable and declaratory relief as necessary to enforce the requirements of sections 2 to 17.

Sec. 16. **[72A.504] OBTAINING INFORMATION UNDER IMPROPER MEANS.**

Any person who knowingly and willfully obtains information about a person in violation of section 5 is subject to a fine not to exceed $3,000 or imprisonment not to exceed one year, or both.

Sec. 17. **[72A.505] IMMUNITY.**

No cause of action in the nature of defamation, invasion of privacy, or negligence may arise against an insurer, insurance agent, or insurance-support organization for disclosing personal or privileged information required to be disclosed under sections 1 to 16, provided no immunity exists for disclosing false information with malice or willful intent to injure any person.

Sec. 18. **EFFECTIVE DATE.**

Sections 1 to 5 and 7 to 17 are effective August 1, 1989, and the rights granted under those sections are effective on that date, regardless of the date of the collection or receipt of the information which is subject to those sections. Section 6 is effective January 1, 1990. Insurers may use, until July 1, 1990, notices that are in substantial compliance with this section that have not been approved by the commissioner of commerce.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:28 p.m.

CHAPTER 317—H.F.No. 65

An act relating to economic development; authorizing local jurisdictions involved in economic development to participate in secondary markets; proposing coding for new law in Minnesota Statutes, chapter 465.

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

Section 1. **[465.78] PARTICIPATION IN ECONOMIC DEVELOPMENT SECONDARY MARKETS.**

(a) A municipality may sell at private or public sale, at the price or prices determined by the municipality, any note, mortgage, lease, sublease, lease purchase, or other instrument or obligation evidencing or securing a loan made for the purpose of economic development, job creation, redevelopment, or community revitalization to a business, for-profit or nonprofit organization, or an individual.

(b) Sales under this section must be made through arrangements whereby the ultimate sale of the instrument is to be made as part of a pool of instruments on behalf of one or more other municipalities, port authorities, housing and redevelopment authorities, or rural development finance authorities (other than a port authority or housing and redevelopment authority located wholly or partly within the municipality). The restrictions of the previous sentence do not apply if the sale is a public sale or if the proposed sale is submitted to and approved by the commissioner of commerce. The commissioner shall review the proposed sale to determine if the agreed upon price adequately compensates the municipality, given the maturity, risk and yield of the instrument. If a proposed sale is submitted to the commissioner of commerce and the sale is not disapproved in writing by the commissioner within 30 days, the sale is deemed approved. The restrictions contained in this paragraph apply to sales made under sections 469.059, subdivision 17; 469.101, subdivision 22; and 469.146, subdivision 3.