

Signed by the governor May 27, 1991, 10:55 p.m.

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CHAPTER 207—H.F.No. 875

*An act relating to insurance; modifying provisions relating to agency termination procedures; rental vehicles; increasing property damage liability coverage; providing for the adjustment or settlement of an automobile loss due to damaged window glass; amending Minnesota Statutes 1990, sections 60A.176, subdivision 3; 60A.177, subdivisions 2, 4, 5, and by adding a subdivision; 65B.49, subdivision 5a; and 72A.201, subdivision 6; repealing Minnesota Statutes 1990, section 60A.176, subdivision 2.*

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

Section 1. Minnesota Statutes 1990, section 60A.176, subdivision 3, is amended to read:

Subd. 3. **AGENT.** "Agent" means an agent who is not an employee of the insurer, who has an agency contractual relationship that has been in effect for five or more years, and who writes 80 percent or more of the agent's business through one insurer or its subsidiaries.

Sec. 2. Minnesota Statutes 1990, section 60A.177, subdivision 2, is amended to read:

Subd. 2. **NOTICE; HEARING.** If an agent is terminated by an insurer, the agent may request a hearing before the board of review. If an insurer initiates the termination of an agent's agreement, the written notice of termination must advise the agent of the agent's right to a hearing before the board of review. Upon receipt of an agent's request for a hearing, the commissioner shall establish a hearing date within 30 days of the request or longer with the approval of the agent and the insurer. The agent and the insurer shall be notified in writing of the date, time, and place of the hearing. The hearing provided for under this section is not subject to Minnesota Statutes, chapter 14. The review board shall provide the parties to the hearing with an opportunity to present evidence and arguments in support of their respective positions.

Sec. 3. Minnesota Statutes 1990, section 60A.177, subdivision 4, is amended to read:

Subd. 4. **BOARD'S DETERMINATION.** Upon completion of the hearing, the board of review shall determine if the termination of the agent's agreement is justified. If in the opinion of the board of review an involuntary termination is not justified, and in the absence of a reasonable contractual financial provision for termination as determined by the ~~commissioner board~~, the ~~commissioner board~~ shall order the insurer to pay an amount of compensation that the ~~commissioner board~~ considers appropriate to the agent.

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If in the opinion of the board of review a voluntary termination was not voluntary and the insurer is not justified in terminating the agent's agreement, and in the absence of a reasonable contractual financial provision for termination as determined by the ~~commissioner board~~, the ~~commissioner board~~ shall order the insurer to pay an amount of compensation that the ~~commissioner board~~ considers appropriate to the agent.

Sec. 4. Minnesota Statutes 1990, section 60A.177, subdivision 5, is amended to read:

Subd. 5. **APPEAL.** ~~An order of the commissioner or A final determination~~ of the board of review under subdivision 4 may be appealed to district court by either party for a trial de novo. If the insurer appeals and the agent prevails, the insurer is responsible for the agent's legal fees as approved by the court.

Sec. 5. Minnesota Statutes 1990, section 60A.177, is amended by adding a subdivision to read:

Subd. 8. ADMINISTRATIVE PENALTIES. Failure to comply with a final order or determination of the review board constitutes a basis for disciplinary action under section 45.027, subdivision 7.

Sec. 6. Minnesota Statutes 1990, section 65B.49, subdivision 5a, is amended to read:

Subd. 5a. **RENTAL VEHICLES.** (a) Every plan of reparation security insuring a natural person as named insured, covering private passenger vehicles as defined under section 65B.001, subdivision 3, and pickup trucks and vans as defined under section 168.011 must provide that all of the obligation for damage and loss of use to a rented private passenger vehicle, including pickup trucks and vans as defined under section 168.011, and rented trucks with a registered gross vehicle weight of 26,000 pounds or less would be covered by the property damage liability portion of the plan. This subdivision does not apply to plans of reparation security covering only motor vehicles registered under section 168.10, subdivision 1a, 1b, 1c, or 1d, or recreational equipment as defined under section 168.011. The obligation of the plan must not be contingent on fault or negligence. In all cases where the plan's property damage liability coverage is less than ~~\$25,000~~ \$35,000, the coverage available under the subdivision must be ~~\$25,000~~ \$35,000. Other than as described in this paragraph, nothing in this section amends or alters the provisions of the plan of reparation security as to primacy of the coverages in this section.

(b) A vehicle is rented for purposes of this subdivision if the rate for the use of the vehicle is determined on a weekly or daily basis. A vehicle is not rented for purposes of this subdivision if the rate for the vehicle's use is determined on a monthly or longer period.

(c) The policy or certificate issued by the plan must inform the insured of the application of the plan to private passenger rental vehicles, including pickup

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trucks and vans as defined under section 168.011, and that the insured may not need to purchase additional coverage from the rental company.

(d) Where an insured has two or more vehicles covered by a plan or plans of reparation security containing the rented motor vehicle coverage required under paragraph (a), the insured may select the plan the insured wishes to collect from and that plan is entitled to a pro rata contribution from the other plan or plans based upon the property damage limits of liability. If the person renting the motor vehicle is also covered by the person's employer's insurance policy or the employer's automobile self-insurance plan, the reparation obligor under the employer's policy or self-insurance plan has primary responsibility to pay claims arising from use of the rented vehicle.

(e) A notice advising the insured of rental vehicle coverage must be given by the reparation obligor to each current insured with the first renewal notice after January 1, 1989. The notice must be approved by the commissioner of commerce. The commissioner may specify the form of the notice.

(f) When a motor vehicle is rented or leased in this state on a weekly or daily basis, there must be attached to the rental contract a separate form containing a written notice in at least 10-point bold type, if printed, or in capital letters, if typewritten, which states:

Under Minnesota law, a personal automobile insurance policy issued in Minnesota must cover the rental of this motor vehicle against damage to the vehicle and against loss of use of the vehicle. Therefore, purchase of any collision damage waiver or similar insurance affected in this rental contract is not necessary if your policy was issued in Minnesota.

No collision damage waiver or other insurance offered as part of or in conjunction with a rental of a motor vehicle may be sold unless the person renting the vehicle provides a written acknowledgment that the above consumer protection notice has been read and understood.

(g) When damage to a rented vehicle is covered by a plan of reparation security as provided under paragraph (a), the rental contract must state that payment by the reparation obligor within the time limits of section 72A.201 is acceptable, and prior payment by the renter is not required.

(h) To be compensated for the loss of use of a damaged rented motor vehicle, the car rental company must prove:

- (1) that had the vehicle been available, it would have been rented; and
- (2) that no other vehicle was available for rental in place of the damaged vehicle.

The standard of proof set forth in this paragraph does not limit the responsibility of a reparation obligor to provide an insured with coverage for any loss

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of use for which the reparation obligor is otherwise responsible. A car rental company may be compensated for loss of use of a damaged rental motor vehicle only for the period when the damaged car actually would have been rented.

Sec. 7. Minnesota Statutes 1990, section 72A.201, subdivision 6, is amended to read:

Subd. 6. **STANDARDS FOR AUTOMOBILE INSURANCE CLAIMS HANDLING, SETTLEMENT OFFERS, AND AGREEMENTS.** In addition to the acts specified in subdivisions 4, 5, 7, 8, and 9, the following acts by an insurer, adjuster, or a self-insured or self-insurance administrator constitute unfair settlement practices:

(1) if an automobile insurance policy provides for the adjustment and settlement of an automobile total loss on the basis of actual cash value or replacement with like kind and quality and the insured is not an automobile dealer, failing to offer one of the following methods of settlement:

(a) comparable and available replacement automobile, with all applicable taxes, license fees, at least pro rata for the unexpired term of the replaced automobile's license, and other fees incident to the transfer or evidence of ownership of the automobile paid, at no cost to the insured other than the deductible amount as provided in the policy;

(b) a cash settlement based upon the actual cost of purchase of a comparable automobile, including all applicable taxes, license fees, at least pro rata for the unexpired term of the replaced automobile's license, and other fees incident to transfer of evidence of ownership, less the deductible amount as provided in the policy. The costs must be determined by:

(i) the cost of a comparable automobile, adjusted for mileage, condition, and options, in the local market area of the insured, if such an automobile is available in that area; or

(ii) one of two or more quotations obtained from two or more qualified sources located within the local market area when a comparable automobile is not available in the local market area. The insured shall be provided the information contained in all quotations prior to settlement; or

(iii) any settlement or offer of settlement which deviates from the procedure above must be documented and justified in detail. The basis for the settlement or offer of settlement must be explained to the insured;

(2) if an automobile insurance policy provides for the adjustment and settlement of an automobile partial loss on the basis of repair or replacement with like kind and quality and the insured is not an automobile dealer, failing to offer one of the following methods of settlement:

(a) to assume all costs, including reasonable towing costs, for the satisfactory repair of the motor vehicle. Satisfactory repair includes repair of both obvious

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and hidden damage as caused by the claim incident. This assumption of cost may be reduced by applicable policy provision; or

(b) to offer a cash settlement sufficient to pay for satisfactory repair of the vehicle. Satisfactory repair includes repair of obvious and hidden damage caused by the claim incident, and includes reasonable towing costs;

(3) regardless of whether the loss was total or partial, in the event that a damaged vehicle of an insured cannot be safely driven, failing to exercise the right to inspect automobile damage prior to repair within five business days following receipt of notification of claim. In other cases the inspection must be made in 15 days;

(4) regardless of whether the loss was total or partial, requiring unreasonable travel of a claimant or insured to inspect a replacement automobile, to obtain a repair estimate, to allow an insurer to inspect a repair estimate, to allow an insurer to inspect repairs made pursuant to policy requirements, or to have the automobile repaired;

(5) regardless of whether the loss was total or partial, if loss of use coverage exists under the insurance policy, failing to notify an insured at the time of the insurer's acknowledgment of claim, or sooner if inquiry is made, of the fact of the coverage, including the policy terms and conditions affecting the coverage and the manner in which the insured can apply for this coverage;

(6) regardless of whether the loss was total or partial, failing to include the insured's deductible in the insurer's demands under its subrogation rights. Subrogation recovery must be shared at least on a proportionate basis with the insured, unless the deductible amount has been otherwise recovered by the insured, except that when an insurer is recovering directly from an uninsured third party by means of installments, the insured must receive the full deductible share as soon as that amount is collected and before any part of the total recovery is applied to any other use. No deduction for expenses may be made from the deductible recovery unless an attorney is retained to collect the recovery, in which case deduction may be made only for a pro rata share of the cost of retaining the attorney;

(7) requiring as a condition of payment of a claim that repairs to any damaged vehicle must be made by a particular contractor or repair shop or that parts, other than window glass, must be replaced with parts other than original equipment parts;

(8) where liability is reasonably clear, failing to inform the claimant in an automobile property damage liability claim that the claimant may have a claim for loss of use of the vehicle;

(9) failing to make a good faith assignment of comparative negligence percentages in ascertaining the issue of liability;

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(10) failing to pay any interest required by statute on overdue payment for an automobile personal injury protection claim;

(11) if an automobile insurance policy contains either or both of the time limitation provisions as permitted by section 65B.55, subdivisions 1 and 2, failing to notify the insured in writing of those limitations at least 60 days prior to the expiration of that time limitation;

(12) if an insurer chooses to have an insured examined as permitted by section 65B.56, subdivision 1, failing to notify the insured of all of the insured's rights and obligations under that statute, including the right to request, in writing, and to receive a copy of the report of the examination;

(13) if an automobile policy provides for the adjustment or settlement of an automobile loss due to damaged window glass, failing to assume all costs sufficient to pay the insured's chosen vendor for the replacement of comparable window glass at a price generally available in the area. This clause does not prohibit an insurer from recommending a vendor to the insured or from agreeing with a vendor to perform work at an agreed-upon price.

**Sec. 8. REPEALER.**

Minnesota Statutes 1990, section 60A.176, subdivision 2, is repealed.

**Sec. 9. EFFECTIVE DATE.**

Sections 1 to 5, 7, and 8 are effective the day following final enactment.

Presented to the governor May 23, 1991

Signed by the governor May 27, 1991, 11:00 p.m.

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**CHAPTER 208—H.F.No. 961**

*An act relating to agriculture; extending the agricultural data collection task force and the farmer-lender mediation act; appropriating money; amending Laws 1985, chapter 19, section 6, subdivision 6, as amended; and Laws 1986, chapter 398, article 1, section 18, as amended.*

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

Section 1. Laws 1985, chapter 19, section 6, subdivision 6, as amended by Laws 1986, chapter 398, article 11, section 4, Laws 1987, chapter 396, article 5, section 3, and Laws 1989, chapter 350, article 3, section 3, is amended to read:

Subd. 6. **EXPIRATION.** The agricultural data collection task force expires April 15, 1991, or 15 days after reporting to the legislature, whichever date comes later, but in no circumstance later than June 1 30, 1991 1993.

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