

CHAPTER 424—S.F.No. 1826

An act relating to metropolitan government; extending reporting and effective dates for radio systems planning by the metropolitan council; extending the moratorium on applications for 800 megahertz channels.

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

Section 1. TIME EXTENSIONS.

The report required by Laws 1993, chapter 313, section 3, subdivision 5, is due February 1, 1995. The moratorium on local governments and state agencies applying to the Federal Communications Commission for 800 megahertz channels in Laws 1993, chapter 313, section 4, is extended to June 30, 1995. No construction, setup, or procurement of a radio system shall be undertaken by a local government or state agency during the moratorium using the 800 MHz National Public Safety Planning Advisory Committee (NPSPAC) channels assigned to the metropolitan region. Laws 1993, chapter 313, expires June 30, 1995, except that the limit on borrowing under section 5 continues in effect notwithstanding section 7 of that act.

Sec. 2. EFFECTIVE DATE; APPLICATION.

Section 1 is effective January 31, 1994, and applies to the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Presented to the governor April 11, 1994

Signed by the governor April 13, 1994, 1:20 p.m.

CHAPTER 425—H.F.No. 1886

An act relating to insurance; regulating insurers, investments, rehabilitations and liquidations, policy loans, and alternative coverage mechanisms; amending Minnesota Statutes 1992, sections 60A.052, subdivision 2; 60A.11, subdivision 13; 60A.111, subdivision 2; 60A.13, subdivision 8; 60B.60, subdivisions 2 and 3; 61A.28, subdivisions 11 and 12; 62F.02, subdivision 1; 62F.03, by adding a subdivision; 62I.08; 62I.13, subdivision 2; and 62I.21; Minnesota Statutes 1993 Supplement, sections 60A.23, subdivision 4; 60D.20, subdivision 2; 62B.12; and 62C.10; repealing Minnesota Statutes 1992, section 60D.19, subdivision 5.

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

Section 1. Minnesota Statutes 1992, section 60A.052, subdivision 2, is amended to read:

Subd. 2. ~~SUMMARY~~ **SUMMARY SUSPENSION OR REVOCATION OF AUTHORITY OR CENSURE.** If the commissioner determines that one of the conditions

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listed in subdivision 1 exists, the commissioner may issue an order requiring the insurance company to show cause why any or all of the following should not occur: (1) revocation or suspension of any or all certificates of authority granted to the foreign or domestic insurance company or its agent; (2) censuring of the insurance company; or (3) the imposition of a civil penalty. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. ~~The commissioner may by order summarily suspend or revoke a certificate pending final determination of any order to show cause. If a certificate is suspended or revoked pending final determination of an order to show cause, a hearing on the merits shall be held within 30 days of the issuance of the summary order.~~ All hearings shall be conducted in accordance with chapter 14. After the hearing, the commissioner shall enter an order disposing of the matter as the facts require. If the insurance company fails to appear at a hearing after having been duly notified of it, the company shall be considered in default, and the proceeding may be determined against the company upon consideration of the order to show cause, the allegations of which may be considered to be true.

Sec. 2. Minnesota Statutes 1992, section 60A.11, subdivision 13, is amended to read:

Subd. 13. **UNITED STATES GOVERNMENT OBLIGATIONS.** (a) Obligations issued or guaranteed by the United States of America or any agency or instrumentality of the United States of America backed by the full faith and credit of the issuer; ~~including rights to purchase or sell these obligations if those rights are traded upon a contract market designated and regulated by a federal agency.~~ Pursuant to section 106 of title I of the Secondary Mortgage Market Enhancement Act of 1984, United States Code, title 15, section 77r-1, included under this paragraph are obligations issued or guaranteed by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association.

(b) Obligations issued or guaranteed by an agency or instrumentality of the United States of America other than those backed by the full faith and credit thereof, including rights to purchase or sell these obligations if those rights are traded upon a contract market designated and regulated by a federal agency. The securities of a single issuer under this paragraph shall comprise no more than 20 percent of the company's admitted assets.

Sec. 3. Minnesota Statutes 1992, section 60A.111, subdivision 2, is amended to read:

Subd. 2. **PLAN.** If the commissioner determines that the required liabilities of any company are greater than its qualified assets and that the combined financial resources of the insurance company members of any insurance holding company system of which the company is a member are not adequate to counterbalance that fact, the commissioner may require the company to submit to the commissioner for approval a plan by which the company undertakes to bring the ratio of its required liabilities to its qualified assets, expressed as a percent-

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age, up to at least ~~100~~ 110 percent within a reasonable period, usually not exceeding five years.

Sec. 4. Minnesota Statutes 1992, section 60A.13, subdivision 8, is amended to read:

Subd. 8. **ANNUAL REPORTS.** Each insurer licensed to write property and casualty insurance in this state, as a supplement to the annual statement required by this section, shall submit a report on a form furnished by the commissioner separately showing its direct writings in Minnesota and in the United States on: liquor liability, ~~product liability~~, medical malpractice, and any other line so designated by the commissioner on January 1 of each year.

The supplemental reports must include the following data for the previous year ending on the 31st day of December:

- (1) direct premiums written;
- (2) direct premiums earned;
- (3) net investment income, including net realized capital gains and losses, using appropriate estimates where necessary;
- (4) incurred claims, developed as the sum, and with figures provided for, of the following:
 - (a) dollar amount of claims closed with payment, plus
 - (b) reserves for reported claims at the end of the current year, minus
 - (c) reserves for reported claims at the end of the previous year, plus
 - (d) reserves for incurred but not reported claims at the end of the current year, minus
 - (e) reserves for incurred but not reported claims at the end of the previous year, plus
 - (f) reserves for loss adjustment expense at the end of the current year, minus
 - (g) reserves for loss adjustment expense at the end of the previous year;
- (5) actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, general office expenses, taxes, licenses and fees, and all other expenses;
- (6) net underwriting gain or loss; and
- (7) net operation gain or loss, including net investment income.

This report is due by the first of May of each year and the report due May 1, 1987 must cover the last six months of 1986. The commissioner shall annu-

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ally compile and review all reports submitted by insurers pursuant to this section. These filings must be published and made available to any interested insured or citizen.

Sec. 5. Minnesota Statutes 1993 Supplement, section 60A.23, subdivision 4, is amended to read:

Subd. 4. **DIVIDENDS; LIMITATIONS.** Domestic stock companies shall follow the dividend limitation and reporting requirements set forth in chapter 60D.

Sec. 6. Minnesota Statutes 1992, section 60B.60, subdivision 2, is amended to read:

Subd. 2. **PRIORITY OF SPECIAL DEPOSIT CLAIMS.** The owners of special deposit claims against an insurer for which a liquidator is appointed in this or any other state shall be given priority against the special deposits in accordance with the statutes governing the creation and maintenance of the deposits. If there is a deficiency in any deposit so that the claims secured by it are not fully discharged from it, the claimants may claim against a security fund share in the general assets, but the sharing shall be deferred until general creditors having the same priority, and also claimants against other special deposits having the same priority who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

Sec. 7. Minnesota Statutes 1992, section 60B.60, subdivision 3, is amended to read:

Subd. 3. **PRIORITY OF SECURED CLAIMS.** The owner of a secured claim against an insurer for which a liquidator has been appointed in this or any other state may surrender the security and file a claim as a general creditor, or the claim may be discharged by resort to the security in accordance with section 60B.43, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors having the same priority.

Sec. 8. Minnesota Statutes 1993 Supplement, section 60D.20, subdivision 2, is amended to read:

Subd. 2. **DIVIDENDS AND OTHER DISTRIBUTIONS.** (a) Subject to the limitations and requirements of this subdivision, the board of directors of any domestic insurer within an insurance holding company system may authorize and cause the insurer to declare and pay any dividend or distribution to its shareholders as the directors deem prudent from the earned surplus of the insurer. An insurer's earned surplus, also known as unassigned funds, shall be determined in accordance with the accounting procedures and practices governing preparation of its annual statement, minus 25 percent of earned surplus attributable to net unrealized capital gains. Dividends which are paid from

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sources other than an insurer's earned surplus or are extraordinary dividends or distributions may be paid only as provided in paragraphs (d), (e), and (f).

(b) The insurer shall notify the commissioner within five business days following declaration of a dividend declared pursuant to paragraph (a) and at least ten days prior to its payment. The commissioner shall promptly consider the notification filed pursuant to this paragraph, taking into consideration the factors described in subdivision 4.

(c) The commissioner shall review at least annually the dividends paid by an insurer pursuant to paragraph (a) for the purpose of determining if the dividends are reasonable based upon (1) the adequacy of the level of surplus as regards policyholders remaining after the dividend payments, and (2) the quality of the insurer's earnings and extent to which the reported earnings include extraordinary items, such as surplus relief reinsurance transactions and reserve destrengthening.

(d) No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until: (1) 30 days after the commissioner has received notice of the declaration of it and has not within the period disapproved the payment; or (2) the commissioner has approved the payment within the 30-day period.

(e) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of (1) ten percent of the insurer's surplus as regards policyholders as of the 31st day of December next preceding; or (2) the net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding, but does not include pro rata distributions of any class of the insurer's own securities.

(f) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval, and the declaration shall confer no rights upon shareholders until: (1) the commissioner has approved the payment of such a dividend or distribution; or (2) the commissioner has not disapproved the payment within the 30-day period referred to above.

Sec. 9. Minnesota Statutes 1992, section 61A.28, subdivision 11, is amended to read:

Subd. 11. **POLICY LOANS.** Loans on the security of insurance policies issued by itself to an amount not exceeding the loan value thereof; and loans on the pledge of any of the securities eligible for investment under the provisions of subdivisions 2 to 10, with the exception of noninvestment grade obligations as defined in subdivision 6, paragraph (f), but not exceeding 95 percent of the value

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of securities enumerated in subdivisions 2, 3, and 4 and 80 percent of the value of stocks and other securities; in case of securities enumerated in subdivisions 3, 5, and 10 "value" means principal amount unpaid thereon and in case of other securities market value thereof; in case of securities enumerated in subdivisions 3 and 10 the pledge agreement shall require principal payments by the pledgor at least equal to and concurrent with principal payments on the pledged security; in loans authorized by this subdivision, except as otherwise provided by law in regard to policy loans, the company shall reserve the right at any time to declare the indebtedness due and payable when in excess of such proportions of value or, in case of pledge of securities other than those enumerated in subdivisions 3 and 10, upon depreciation of security. In the case of securities enumerated in subdivision 8, the provision of this subdivision must be applied in accordance with the type of security subject to the asset backed arrangement.

Sec. 10. Minnesota Statutes 1992, section 61A.28, subdivision 12, is amended to read:

Subd. 12. **ADDITIONAL INVESTMENTS.** Investments of any kind, without regard to the categories, conditions, standards, or other limitations set forth in the foregoing subdivisions and section 61A.31, subdivision 3, except that the prohibitions in clause (d) of subdivision 3 remains applicable, may be made by a domestic life insurance company in an amount not to exceed the lesser of the following:

(1) Five percent of the company's total admitted assets as of the end of the preceding calendar year, or

(2) Fifty percent of the amount by which its capital and surplus as of the end of the preceding calendar year exceeds \$675,000. Except as provided in section 61A.281, a company's total investment under this section in the common stock of any corporation, other than the stock of the types of corporations specified in ~~subdivision 6, paragraph (a)~~ section 61A.284, may not exceed ten percent of the common stock of the corporation. No investment may be made under the authority of this clause or clause (1) by a company that has not completed five years of actual operation since the date of its first certificate of authority.

If, subsequent to being made under the provisions of this subdivision, an investment is determined to have become qualified or eligible under any of the other provisions of this chapter, the company may consider the investment as being held under the other provision and the investment need no longer be considered as having been made under the provisions of this subdivision.

In addition to the investments authorized by this subdivision, a domestic life insurance company may make qualified investments in any additional securities or property of the type authorized by subdivision 6, paragraph (e), (f), or (g), with the written order of the commissioner. This approval is at the discretion of the commissioner, provided that the additional investments allowed by the commissioner's written order may not exceed five percent of the company's admitted assets. This authorization does not negate or reduce the investment authority granted in subdivision 6, paragraph (e), (f), or (g), or this subdivision.

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Sec. 11. Minnesota Statutes 1993 Supplement, section 62B.12, is amended to read:

62B.12 RULEMAKING.

The commissioner may, after notice and hearing, issue rules the commissioner deems appropriate for the supervision of sections 62B.01 to 62B.14. The commissioner shall promulgate rules to establish rates for credit involuntary unemployment insurance prior to its issuance, and to enact the other provisions of Laws 1993, chapter 343, and the commissioner shall report by February 15, 1994, to the house of representatives committee on financial institutions and insurance and to the senate commerce and consumer protection committee on the rules or status of the rulemaking, including the expected loss ratio. The commissioner is not obligated to promulgate a rule unless and until four or more insurers who plan to write credit involuntary unemployment insurance in Minnesota agree to pay for the cost of the promulgation of any rules authorized by this section. Companies selling credit involuntary unemployment insurance shall be assessed by the department to pay the costs of rulemaking.

Moneys collected pursuant to this provision must be deposited in the state treasury and credited to a special account and are appropriated to the commissioner for the rulemaking purposes authorized by this section.

For the purposes of chapter 62B, any insurer authorized to offer the coverage specified by section 60A.06, subdivision 1, clause (1) or (4), shall be authorized to sell credit involuntary unemployment insurance pursuant to this chapter.

Sec. 12. Minnesota Statutes 1993 Supplement, section 62C.10, is amended to read:

62C.10 INVESTMENT.

Funds of a corporation subject to this chapter shall be invested only in securities and property designated by law for investment by domestic life insurance companies. Notwithstanding any limitations set forth in chapter 61A, an organization which has received a certificate of authority from the commissioner to operate under this chapter ~~only for the provision of prepaid dental plans~~ may invest up to 20 percent of its admitted assets in ~~subsidiary~~ corporations whose business is the arrangement for, management of, or provision of health care services, including dental and related managed care and administrative services. Any amounts so invested ~~in subsidiary corporations~~ shall, for purposes of section 62C.09, be added to the minimum and maximum reserve requirements as calculated for a service plan corporation.

Sec. 13. Minnesota Statutes 1992, section 62F.02, subdivision 1, is amended to read:

Subdivision 1. **CREATION.** There is created a joint underwriting associa-

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tion to provide medical malpractice insurance coverage to any licensed health care provider unable to obtain this insurance through ordinary methods, who practices or provides professional services within the state of Minnesota and obtains at least 60 percent of gross revenues from patients who are residents of the state of Minnesota. Every insurer authorized to write and writing personal injury liability insurance in this state shall be a member of the association as a condition to obtaining and retaining a license to write insurance in this state.

Sec. 14. Minnesota Statutes 1992, section 62F.03, is amended by adding a subdivision to read:

Subd. 8. "Professional services" means services performed by a licensed health care provider which are undertaken with the objective of: providing prevention care, rehabilitative care, treatment of specific diseases, injuries, or conditions, or care rendered with the intent of stabilizing the patient's condition and to prevent further deterioration or injury. Professional services does not include services provided by licensed health care providers who rely solely on spiritual or divine intervention as the only means of care or treatment.

Sec. 15. Minnesota Statutes 1992, section 62I.08, is amended to read:

62I.08 APPLICATION PROCEDURE.

A person or entity that has been denied coverage or is unable to find an insurer willing to write coverage is eligible to make an application to the association. The application shall be on a form approved by the board of directors. To show eligibility to participate in the association the applicant shall certify that the applicant has been unable to find anyone to offer the coverage sought by the applicant. No further proof shall be required of the applicant, except that the application form approved by the board of directors may require the date and the name of the insurance company denying coverage and may require a copy of a written offer if the rate qualifies the applicant to apply under section 62I.13, subdivision 2. The application shall be filed simultaneously with the association and the market assistance plan of the association.

Sec. 16. Minnesota Statutes 1992, section 62I.13, subdivision 2, is amended to read:

Subd. 2. MINIMUM OF QUALIFICATIONS. Anyone who is unable to obtain insurance in the private market and who so certifies to the association in the application is eligible to make written application to the association for coverage. The application may require information as provided in section 62I.08. Payment of the applicable premium or required portion of it must be paid prior to coverage by the association. An offer of coverage at a rate in excess of the rate that would be charged by the association for similar coverage and risk shall be deemed to be a refusal of coverage for purposes of eligibility for participation in the association. It shall not be deemed to be a written notice of refusal if the rate for coverage offered is less than ~~five~~ ten percent in excess of the joint underwriting association rates for similar coverage and risk. However, the offered rate

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must also be the rate that the insurer has filed with the department of commerce if the insurer is required to file its rates with the department. If the insurer is not required to file its rates with the department, the offered rate must be the rate generally charged by the insurer for similar coverage and risk.

Sec. 17. Minnesota Statutes 1992, section 62I.21, is amended to read:

62I.21 ACTIVATION OF MARKET ASSISTANCE PLAN AND JOINT UNDERWRITING ASSOCIATION.

At any time the commissioner of commerce deems it necessary to provide assistance with respect to the Upon submission of an application for placement of general liability insurance coverage ~~on Minnesota risks for~~ under section 62I.13 in a class of business for which the market assistance plan and the joint underwriting association are not then activated, where the applicant has been refused coverage within the meaning of section 62I.13, subdivision 2, the commissioner shall may by notice in the State Register activate the market assistance plan and the joint underwriting association on Minnesota risks for the class of business. The plan and association are activated for a period of 180 days from publication of the notice. At the same time the notice is published, the commissioner shall prepare a written petition requesting that a hearing be held to determine whether activation of the market assistance plan and the joint underwriting association is necessary beyond the 180-day period. The hearing must be held in accordance with section 62I.22. The commissioner by order shall deactivate a market assistance program and the joint underwriting association at any time the commissioner finds that the market assistance program and the joint underwriting association are not necessary.

Sec. 18. REPEALER.

Minnesota Statutes 1992, section 60D.19, subdivision 5, is repealed.

Presented to the governor April 11, 1994

Signed by the governor April 13, 1994, 1:10 p.m.

CHAPTER 426—H.F.No. 1964

An act relating to insurance; solvency; regulating reinsurance, loss reserve certifications and annual audits, and annual statements; regulating certain guaranty association coverages; modifying the incorporation requirements of domestic mutuals; amending Minnesota Statutes 1992, sections 60A.092, subdivision 7; 60A.206, subdivision 6; 60C.02, subdivision 1; 62E.10, subdivision 2; and 66A.03; Minnesota Statutes 1993 Supplement, sections 60A.129, subdivisions 3, 5, and 7; 60A.13, subdivision 1; and 61B.19, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 60A; repealing Minnesota Statutes 1992, sections 60A.80; 60A.801; and 60A.802.

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