

The commissioner of commerce shall adopt rules to provide that procedural requirements equivalent to those contained in sections 48.90 to 48.991 apply to reciprocal interstate branching and acquisitions by savings and loan associations.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective the day following final enactment.

Presented to the governor April 20, 1994

Signed by the governor April 21, 1994, 11:55 a.m.

CHAPTER 485—H.F.No. 1094

An act relating to insurance; regulating fees, data collection, coverages, notice provisions, enforcement provisions, the Minnesota joint underwriting association and the liquor liability assigned risk plan; enacting the NAIC model regulation relating to reporting requirements for licensees seeking to do business with certain unauthorized multiple employer welfare arrangements; making various technical changes; amending Minnesota Statutes 1992, sections 45.024, subdivision 2; 59A.12, by adding a subdivision; 60A.02, by adding a subdivision; 60A.03, subdivision 5; 60A.052, subdivision 2; 60A.082; 60A.085; 60A.14, subdivision 1; 60A.19, subdivision 4; 60A.206, subdivision 3; 60A.21, subdivision 2; 60A.36, by adding a subdivision; 60K.06; 60K.14, subdivision 4; 61A.07; 61A.071; 61A.074, subdivision 1; 61A.08; 61A.09, subdivision 1; 61A.092, by adding a subdivision; 61A.12, subdivision 1; 61A.282, subdivision 2; 62A.047; 62A.148; 62A.153; 62A.43, subdivision 4; 62E.05; 62E.19, subdivision 1; 62H.01; 62I.02; 62I.03; 62I.07; 62I.13, subdivisions 1 and 2; 62I.20; 65A.01, subdivision 1; 65A.29, subdivision 7; 65B.49, subdivision 3; 72A.20, subdivision 29, and by adding a subdivision; 72A.201, subdivision 9; 72A.41, subdivision 1; 72B.03, subdivision 1; 72B.04, subdivision 2; 176.181, subdivision 2; and 340A.409, subdivisions 2 and 3; Minnesota Statutes 1993 Supplement, section 61A.02, subdivision 2; Laws 1993, chapter 372, section 8; proposing coding for new law in Minnesota Statutes, chapters 45; 61A; 62A; and 62H; repealing Minnesota Statutes 1992, sections 72A.45; and 72B.07; Minnesota Rules, parts 2780.4800; 2783.0010; 2783.0020; 2783.0030; 2783.0040; 2783.0050; 2783.0060; 2783.0070; 2783.0080; 2783.0090; and 2783.0100.

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

Section 1. [45.015] PROOF OF MAILING.

In any provision of law related to the duties and responsibilities entrusted to the commissioner, and unless a different method is specified, when a person is required to provide notice or perform a similar act, this action may be accomplished by mail, and proof of mailing is sufficient to prove compliance with the requirement.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 2. Minnesota Statutes 1992, section 45.024, subdivision 2, is amended to read:

Subd. 2. **DELEGATION.** The commissioner of commerce may delegate to a deputy commissioner, assistant commissioner, or director the exercise of the commissioner's statutory powers and duties, including the authority to decide and issue final orders in contested cases, rulemaking proceedings, and other hearings held under chapter 14.

This delegation is in addition to, and does not in any way limit, the commissioner's authority to delegate pursuant to section 15.06, subdivision 6, or any other law.

Sec. 3. Minnesota Statutes 1992, section 59A.12, is amended by adding a subdivision to read:

Subd. 5. Whenever an insurer, after having been advised that an insurance policy has been financed by a premium finance agreement, returns an unearned premium on such a policy, the insurer shall deliver or mail to the policyholder a notice that includes the following information: the amount of premium paid, the term of the policy, the date coverage began and ceased, the amount of the unearned premium, the name of the party receiving the funds, and a statement of the obligation of the premium finance company to return within 30 days of receipt of the unearned premium any amount of the unearned premium in excess of the amount owed by the policyholder to the premium finance company.

Sec. 4. Minnesota Statutes 1992, section 60A.02, is amended by adding a subdivision to read:

Subd. 28. **GROUP INSURANCE.** "Group insurance" means that form of insurance coverage sponsored by:

(1) an employer covering not less than two employees and which may include the employees' dependents, consisting of husband, wife, children, and actual dependents residing in the household, written under a master policy issued to any employer, or group of employers who have joined into an arrangement for the purposes of providing the employees insurance for their individual benefit. Employees' dependents, consisting of husband, wife, children, and actual dependents residing in the same household, are not employees for purposes of this definition except for a spouse employed on a regular full-time basis by the same employer. This clause does not apply to chapter 62L;

(2) an association to provide insurance to its members; or

(3) a creditor to provide life insurance to insure its debtors in connection with real estate mortgage loans, in an amount not to exceed the actual or scheduled amount of their indebtedness.

Sec. 5. Minnesota Statutes 1992, section 60A.03, subdivision 5, is amended to read:

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Subd. 5. **EXAMINATION FEES AND EXPENSES.** When any visitation, examination, or appraisal is made by order of the commissioner, the company being examined, visited, or appraised, including, but not limited to, fraternal, township mutuals, reciprocal exchanges, nonprofit service plan corporations, health maintenance organizations, vendors of risk management services licensed under section 60A.23, or self-insurance plans or pools established under section 176.181 or 471.982, shall pay to the department of commerce the necessary expenses of the persons engaged in the examination, visit, appraisal, or desk audits of annual statements and records performed by the department other than on the company premises plus the per diem salary fees of the employees of the department of commerce who are conducting or participating in the examination, visitation, appraisal, or desk audit. The per diem salary fees may be based upon the approved examination fee schedules of the National Association of Insurance Commissioners or otherwise determined by the commissioner. All of these fees and expenses must be paid into the department of commerce revolving fund.

Sec. 6. Minnesota Statutes 1992, section 60A.052, subdivision 2, is amended to read:

Subd. 2. **SUMMARY SUSPENSION OR REVOCATION OF AUTHORITY OR CENSURE.** If the commissioner determines that one of the conditions 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. The insurer may waive its right to the hearing. If the insurer is under the supervision or control of the insurance department of the insurer's state of domicile, that insurance department, acting on behalf of the insurer, may waive the insurer's right to the hearing. 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. 7. Minnesota Statutes 1992, section 60A.082, is amended to read:

60A.082 GROUP INSURANCE; BENEFITS CONTINUED IF INSURER CHANGED.

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A person covered under group life, group accidental death and dismemberment, group disability income or group medical expense insurance, shall not be denied benefits to which the person is otherwise entitled solely because of a change in the insurance company writing the coverage or in the group contract applicable to the person. In the case of one or more carriers replacing or remaining in place after one or more plans have been discontinued, each carrier shall accept any person who was covered under the discontinued plan or plans without denial of benefits to which other persons in the group covered by that carrier are entitled. "Insurance company" shall include a service plan corporation under chapter 62C or 62D.

For purposes of satisfying any preexisting condition limitation, the insurance company shall credit the period of time the person was covered by the prior plan, if the person has maintained continuous coverage.

The commissioner shall promulgate rules to carry out this section. Nothing in this section shall preclude an employer, union or association from reducing the level of benefits under any group insurance policy or plan.

Sec. 8. Minnesota Statutes 1992, section 60A.085, is amended to read:

60A.085 CANCELLATION OF GROUP COVERAGE; NOTIFICATION TO COVERED PERSONS.

(a) No cancellation of any group life, group accidental death and dismemberment, group disability income, or group medical expense policy, plan, or contract is effective unless the insurer has made a good faith effort to notify all covered persons of the cancellation at least 30 days before the effective cancellation date. For purposes of this section, an insurer has made a good faith effort to notify all covered persons if the insurer has notified all the persons included on the list required by paragraph (b) at the home address given and only if the list has been updated within the last 12 months.

(b) At the time of the application for coverage subject to paragraph (a), the insurer shall obtain an accurate list of the names and home addresses of all persons to be covered. ~~The insurer shall obtain an update of the list at least once during each subsequent 12-month period while the policy, plan, or contract is in force.~~

(c) Paragraph (a) does not apply if the group policy, plan, or contract is replaced by a substantially similar policy, plan, or contract.

Sec. 9. Minnesota Statutes 1992, 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:

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- (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;
 - (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, \$100;
 - (2) for filing annual statement, \$225;
 - (3) for filing certified copy of amendment to certificate or articles of incorporation, \$100;
 - (4) for filing bylaws, \$75 or amendments thereto, \$75;
 - (5) for each company's certificate of authority, \$575, 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, \$25;
 - (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, \$575;
 - (4) ~~for receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of commerce, 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 \$1,000 of insurance so valued, provided that the fee shall not exceed \$13,000 per year for any company. 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) (5) 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, \$30 per license, for issuing an initial agent's license to a partnership or corporation, \$100, and for issuing an amendment (variable annuity) to a license, \$50, and for renewal of amendment, \$25;~~

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

(9) ~~for renewing an individual agent's license, \$30 per year per license, and for renewing a license issued to a corporation or partnership, \$60 per year;~~

(10) ~~for issuing and renewing a surplus lines agent's license, \$250;~~

(11) ~~for issuing duplicate licenses, \$10;~~

(12) ~~for issuing licensing histories, \$20;~~

(13) ~~(7)~~ for filing forms and rates, \$50 per filing;

(14) ~~(8)~~ for annual renewal of surplus lines insurer license, \$300.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 10. Minnesota Statutes 1992, section 60A.19, subdivision 4, is amended to read:

Subd. 4. ~~**FEES SERVICE OF PROCESS.** The commissioner shall be entitled to charge and receive a fee prescribed by section 60A.14, subdivision 1, paragraph (e), clause (4), for each notice, proof of loss, summons, or other process served under the provisions of this subdivision and subdivision 3, to be paid by the persons serving the same. The service of process authorized by this section shall be made in compliance with section 45.028, subdivision 2.~~

Sec. 11. Minnesota Statutes 1992, section 60A.206, subdivision 3, is amended to read:

Subd. 3. **STANDARDS TO BE MET BY INSURERS.** (a) The commissioner shall recognize the insurer as an eligible surplus lines insurer when satisfied that the insurer is in a stable, unimpaired financial condition and that the insurer is qualified to provide coverage in compliance with sections 60A.195 to 60A.209. If filed with full supporting documentation before July 1 of any year, applications submitted under subdivision 2 shall be acted upon by the commissioner before December 31 of the year of submission.

(b) The commissioner shall not authorize an insurer as an eligible surplus lines insurer unless the insurer continuously maintains capital and surplus of at least \$3,000,000 and transaction of business by the insurer is not hazardous, financially or otherwise, to its policyholders, its creditors, or the public. Each alien surplus lines insurer shall have current financial data filed with the National Association of Insurance Commissioners Nonadmitted Insurers Information Office.

(c) Eligible surplus lines insurers domiciled within the United States shall file an annual statement and an annual financial audit, under the terms and conditions of section 60A.13, subdivisions 1, 3a, and 6, and are subject to the penal-

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ties of section 72A.061, and are subject to section 60A.03, subdivision 5, in regard to those requirements. The commissioner also has the powers provided in section 60A.13, subdivision 2, in regard to eligible surplus lines insurers.

(d) Eligible surplus lines insurers domiciled outside the United States shall file an annual statement on the standard nonadmitted insurers information office financial reporting format as prescribed by the National Association of Insurance Commissioners and an annual financial audit performed by an independent accounting firm.

Sec. 12. Minnesota Statutes 1992, 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 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 commerce and the commissioner's 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 significant 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 in compliance with section 45.028, subdivision 2 ~~and the payment of a filing fee as prescribed by section 60A.14, subdivision 1; paragraph (e); clause (4).~~

(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 administrator 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

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under this subdivision until the expiration of 30 days from the date of the filing of the affidavit of compliance.

(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. 13. Minnesota Statutes 1992, section 60A.36, is amended by adding a subdivision to read:

Subd. 5. RESCISSION. (a) No insurer may rescind or void a contract of liability or property insurance unless there was material misrepresentation, material omission, or fraud made by or with the knowledge of the insured in obtaining the contract or in pursuing a claim under the policy.

(b) No misrepresentation or omission shall be material unless knowledge by the insurer of the facts misrepresented or omitted would have led to a refusal by the insurer to make such a contract. In determining the question of materiality, evidence of the practice of the insurer with respect to the acceptance or rejection of similar risks shall be admissible.

(c) For purposes of this section, a representation is a statement as to past or present fact, made to an insurer or the insurer's agent by the applicant as an inducement for issuing a contract of commercial liability or property insurance. A misrepresentation is a false representation, and the facts misrepresented are those facts which make the representation false.

(d) This subdivision does not limit the right to cancel the policy prospectively for the reasons stated in subdivision 1, clause (2).

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Sec. 14. Minnesota Statutes 1992, section 60K.06, is amended to read:

60K.06 ~~RENEWAL FEE FEES.~~

Subdivision 1. RENEWAL FEES. (a) Each agent licensed pursuant to section 60K.03 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 October 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 November 1. Applications for renewal of a license are timely filed if received by the commissioner on or before October 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 October 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.~~

Subd. 2. LICENSING FEES. (a) In addition to the fees and charges provided for examinations, each agent licensed pursuant to section 60K.03 shall pay to the commissioner:

(1) for issuing an initial license to an individual agent, \$30 per year;

(2) for issuing an initial agent's license to a partnership or corporation, \$100 per year;

(3) for issuing an amendment (variable annuity) to a license, \$50 per year;

(4) for renewing an amendment, \$25 per year;

(5) for renewing an individual agent's license, \$30 per year;

(6) for renewing a license issued to a corporation or partnership, \$60 per year;

(7) for issuing and renewing a surplus lines agent's license, \$250 per year;

(8) for issuing duplicate licenses, \$10.

(b) Every agent, corporation, and partnership license expires on October 31.

(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 November 1. Applications for renewal of a license are

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timely filed if received by the commissioner on or before October 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 October 15.

(d) All fees shall be retained by the commissioner and shall be nonreturnable, except that an overpayment of any fee shall be the subject of a refund upon proper application.

Sec. 15. Minnesota Statutes 1992, section 60K.14, subdivision 4, is amended to read:

Subd. 4. **SUITABILITY OF INSURANCE.** In recommending the purchase of any life, endowment, individual accident and sickness, long-term care, annuity, life-endowment, or Medicare supplement insurance to a customer, an agent must have reasonable grounds for believing that the recommendation is suitable for the customer and must make reasonable inquiries to determine suitability. The suitability of a recommended purchase of insurance will be determined by reference to the totality of the particular customer's circumstances, including, but not limited to, the customer's income, the customer's need for insurance, and the values, benefits, and costs of the customer's existing insurance program, if any, when compared to the values, benefits, and costs of the recommended policy or policies.

Sec. 16. Minnesota Statutes 1993 Supplement, section 61A.02, subdivision 2, is amended to read:

Subd. 2. **APPROVAL REQUIRED.** No policy or certificate of life insurance or annuity contract, issued to an individual, group, or multiple employer trust, 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 approved by the commissioner. In making a determination under this section, the commissioner may require the insurer to provide rates and advertising materials related to policies or contracts, certificates, or similar evidence of coverage issued or delivered in this state.

This section applies to a policy, certificate of insurance, or similar evidence of coverage issued to a Minnesota resident or issued to provide coverage to a Minnesota resident. This section does not apply to a certificate of insurance or similar evidence of coverage that meets the conditions of section 61A.093, subdivision 2.

Sec. 17. Minnesota Statutes 1992, section 61A.07, is amended to read:

61A.07 PROHIBITED PROVISIONS.

No policy of life insurance shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, if it contains a provision:

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(1) for forfeiture of the policy for failure to repay any loan on the policy or to pay interest on such loan while the total indebtedness on the policy is less than the loan value thereof; or for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contain a stipulation that no such forfeiture shall occur until at least one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any, notice of whose address and contract of the assignment has been filed with the company, at its home office; or

(2) in a life policy or annuity contract, limiting the time within which any action at law or in equity may be commenced to less than five years after the cause of action shall accrue; or

(3) by which the policy shall purport to be issued or to take effect more than six months before the original application for the insurance was made; or

(4) for any mode of settlement at maturity of less value than the amount insured on the face of the policy plus any dividend additions, less any indebtedness to the company on the policy, and less any premium that may be deducted by the terms of the policy.

Sec. 18. Minnesota Statutes 1992, section 61A.071, is amended to read:

61A.071 APPLICATIONS.

No individual life insurance policy, ~~except mass marketed life insurance as defined in section 72A.13, subdivision 2~~ except life insurance marketed on a direct response basis, shall be issued or delivered in this state to a person age 65 or older unless a signed and completed copy of the application for insurance is left with the applicant at the time application is made. However, where an individual life policy is marketed on a direct response basis, a copy of any application signed by the applicant shall be delivered to the insured along with, or as part of, the policy.

Sec. 19. Minnesota Statutes 1992, section 61A.074, subdivision 1, is amended to read:

Subdivision 1. **CORPORATION OR TRUSTEE.** A corporation or the trustee of a trust providing life, annuity, health, disability, retirement, or similar benefits to employees of one or more corporations, and acting in a fiduciary capacity with respect to the employees, retired employees, or their dependents or beneficiaries, has an insurable interest in the lives of employees for whom the benefits are to be provided. The written consent of the insured is required if the insurance purchased under this subdivision is payable to the corporation or to the trustee.

Sec. 20. Minnesota Statutes 1992, section 61A.08, is amended to read:

61A.08 EXCEPTIONS.

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Sections 61A.02, 61A.03, 61A.07, 61A.23, and 61A.25 shall not, except as expressly provided in this chapter, apply to ~~annuities~~, industrial or group term policies, or to corporations or associations operating on the assessment or fraternal plan, ~~and in every case where a contract provides for both insurance and annuities~~; ~~sections 61A.02, 61A.03 and 61A.07 shall apply only to that part of the contract which provides for insurance~~; but every contract issued prior to the operative date specified in section 61A.245 containing a provision for a deferred annuity on the life of the insured only, unless paid for by a single premium, shall provide that, in event of the nonpayment of any premium after three full years' premium shall have been paid, the annuity shall automatically become converted into a paid-up annuity for that proportion of the original annuity as the number of completed years' premiums paid bears to the total number of premiums required under the contract.

Sec. 21. Minnesota Statutes 1992, section 61A.09, subdivision 1, is amended to read:

Subdivision 1. No group life insurance policy or group annuity shall be issued for delivery in this state until the form thereof and the form of any certificates issued thereunder have been filed in accordance with and subject to the provisions of section 61A.02. Each person insured under such a group life insurance policy (excepting policies which insure the lives of debtors of a creditor or vendor to secure payment of indebtedness) shall be furnished a certificate of insurance issued by the insurer and containing the following:

- (a) Name and location of the insurance company;
- (b) A statement as to the insurance protection to which the certificate holder is entitled, including any changes in such protection depending on the age of the person whose life is insured;
- (c) Any and all provisions regarding the termination or reduction of the certificate holder's insurance protection;
- (d) A statement that the master group policy may be examined at a reasonably accessible place;
- (e) The maximum rate of contribution to be paid by the certificate holder;
- (f) Beneficiary and method required to change such beneficiary;
- (g) In the case of a group term insurance policy if the policy provides that insurance of the certificate holder will terminate, in case of a policy issued to an employer, by reason of termination of the certificate holder's employment, or in case of a policy issued to an organization of which the certificate holder is a member, by reason of termination of membership, a provision to the effect that in case of termination of employment or membership, or in case of termination of the group policy, the certificate holder shall be entitled to have issued by the insurer, without evidence of insurability, upon application made to the insurer

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within 31 days after the termination of ~~employment or membership~~, and upon payment of the premium applicable to the class of risk to which that person belongs and to the form and amount of the policy at that person's then attained age, a policy of life insurance only, in any one of the forms customarily issued by the insurer except term insurance, in an amount equal to the amount of the life insurance protection under such group insurance policy at the time of such termination; and shall contain a further provision to the effect that upon the death of the certificate holder during such 31-day period and before any such individual policy has become effective, the amount of insurance for which the certificate holder was entitled to make application shall be payable as a death benefit by the insurer.

This section applies to a policy, certificate of insurance, or similar evidence of coverage issued to a Minnesota resident or issued to provide coverage to a Minnesota resident. This section does not apply to a certificate of insurance or similar evidence of coverage that meets the conditions of section 61A.093, subdivision 2.

Sec. 22. Minnesota Statutes 1992, section 61A.092, is amended by adding a subdivision to read:

Subd. 6. APPLICATION. This section applies to a policy, certificate of insurance, or similar evidence of coverage issued to a Minnesota resident or issued to provide coverage to a Minnesota resident. This section does not apply to a certificate of insurance or similar evidence of coverage that meets the conditions of section 61A.093, subdivision 2.

Sec. 23. [61A.093] CERTIFICATE OF INSURANCE.

Subdivision 1. COVERAGE. A certificate of insurance or similar evidence of coverage issued to a Minnesota resident shall provide coverage for all benefits required to be covered in group policies in Minnesota by this chapter.

This subdivision supersedes any inconsistent provision of this chapter.

A policy of life insurance that is issued or delivered in this state and that covers a person residing in another state may provide coverage or contain provisions that are less favorable to that person than required by this chapter. Less favorable coverages or provisions must meet the requirements that the state in which the person resides would have required had the policy been issued or delivered in that state.

Subd. 2. NONAPPLICATION. Subdivision 1 does not apply to certificates issued in regard to a master policy issued outside the state of Minnesota if all of the following are true:

(1) the policyholder or certificate holder exists primarily for purposes other than to obtain insurance;

(2) the policyholder or certificate holder is not a Minnesota corporation and does not have its principal office in Minnesota;

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(3) the policy or certificate covers fewer than 25 persons who are residents of Minnesota and the Minnesota residents represent less than 25 percent of all covered persons; and

(4) on request of the commissioner, the issuer files with the commissioner a copy of the policy and a copy of each form of certificate.

Subd. 3. RELATION TO OTHER LAW. Section 60A.08, subdivision 4, shall not be construed as requiring a certificate of insurance or similar evidence of insurance that meets the conditions of subdivision 2 to comply with this chapter.

Sec. 24. Minnesota Statutes 1992, section 61A.12, subdivision 1, is amended to read:

Subdivision 1. **PROCEEDS OF LIFE POLICY OR ANNUITY, WHO ENTITLED TO.** When any insurance is effected in favor of another, the beneficiary shall be entitled to its proceeds against the creditors and representatives of the person effecting the same. All premiums paid for insurance in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy, if the company be specifically notified thereof, in writing, before payment.

Sec. 25. Minnesota Statutes 1992, section 61A.282, subdivision 2, is amended to read:

Subd. 2. **LENDING OF SECURITIES.** A company may loan securities held by it under this chapter to a broker-dealer registered under the Securities and Exchange Act of 1934 or to a bank which is a member of the Federal Reserve System, under the following conditions:

(a) The market value of loaned securities outstanding at any one time, excluding securities held in a separate account established pursuant to section 61A.14, subdivision 1, or 61A.275, shall not exceed 40 percent of the company's capital and surplus admitted assets as of the December 31 immediately preceding.

(b) The company is limited to no more than two percent of its admitted assets as of the December 31 immediately preceding being subject to lending of securities with any one borrower.

(c) Each loan must be evidenced by a written agreement which provides:

(a) (1) that the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality thereof, and that the collateral will be adjusted each business day during the term of the loan to maintain the required collateral in the event of market value changes in the loaned securities or collateral;

(b) (2) that the loan may be terminated by the company at any time, and

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that the borrower must return the loaned securities or their equivalent within five business days after termination;

(e) (3) that the company has the right to retain the collateral or to use the collateral to purchase securities equivalent to the loaned securities if the borrower defaults under the terms of the agreement; and

(d) (4) that the borrower remains liable for any losses and expenses, not covered by the collateral, which are incurred by the company due to default.

Sec. 26. Minnesota Statutes 1992, section 62A.047, is amended to read:

62A.047 CHILDREN'S HEALTH SUPERVISION SERVICES AND PRENATAL CARE SERVICES.

A policy of individual or group health and accident insurance regulated under this chapter, or individual or group subscriber contract regulated under chapter 62C, health maintenance contract regulated under chapter 62D, or health benefit certificate regulated under chapter 64B, issued, renewed, or continued to provide coverage to a Minnesota resident, must provide coverage for child health supervision services and prenatal care services. The policy, contract, or certificate must specifically exempt reasonable and customary charges for child health supervision services and prenatal care services from a deductible, copayment, or other coinsurance or dollar limitation requirement. ~~For individual policies,~~ This section does not prohibit the use of policy waiting periods or preexisting condition limitations for these services. Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit cited in this section subject to the schedule set forth in this section. Nothing in this section applies to a commercial health insurance policy issued as a companion to a health maintenance organization contract, a policy designed primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense incurred basis, or a policy that provides only accident coverage.

"Child health supervision services" means pediatric preventive services, appropriate immunizations, developmental assessments, and laboratory services appropriate to the age of a child from birth to age six as defined by Standards of Child Health Care issued by the American Academy of Pediatrics. Reimbursement must be made for at least five child health supervision visits from birth to 12 months, three child health supervision visits from 12 months to 24 months, once a year from 24 months to 72 months.

"Prenatal care services" means the comprehensive package of medical and psychosocial support provided throughout the pregnancy, including risk assessment, serial surveillance, prenatal education, and use of specialized skills and technology, when needed, as defined by Standards for Obstetric-Gynecologic Services issued by the American College of Obstetricians and Gynecologists.

Sec. 27. [62A.105] COVERAGES; TRANSFERS TO SUBSTANTIALLY SIMILAR PRODUCTS.

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Subdivision 1. SCOPE. No individual policy of accident and sickness regulated under this chapter or subscriber contract regulated under chapter 62C shall be issued, renewed, or continued to provide coverage to a Minnesota resident unless it satisfies the requirements of subdivision 2.

Subd. 2. REQUIREMENT. If an issuer of policies or plans referred to in subdivision 1 ceases to offer a particular policy or subscriber contract to the general public or otherwise stops adding new insureds to the group of covered persons, the issuer shall allow any covered person to transfer to another substantially similar policy or contract currently being sold by the issuer. The issuer shall permit the transfer without any preexisting condition limitation, waiting period, or other restriction of any type other than those which applied to the insured under the prior policy or contract. This section does not apply to persons who were covered under an individual policy or contract prior to July 1, 1994.

Sec. 28. **[62A.136] DENTAL AND VISION PLANS.**

The following provisions do not apply to health plans providing dental or vision coverage only: sections 62A.041, 62A.047, 62A.149, 62A.151, 62A.152, 62A.154, 62A.155, 62A.26, 62A.28, and 62A.30.

Sec. 29. Minnesota Statutes 1992, section 62A.148, is amended to read:

62A.148 GROUP INSURANCE; PROVISION OF BENEFITS FOR DISABLED EMPLOYEES.

No employer or insurer of that employer shall terminate, suspend or otherwise restrict the participation in or the receipt of benefits otherwise payable under any program or policy of group insurance to any covered employee who becomes totally disabled while employed by the employer solely on account of absence caused by such total disability. This includes coverage of dependents of the employee. If the employee is required to pay all or any part of the premium for the extension of coverage, payment shall be made to the employer, by the employee.

Sec. 30. Minnesota Statutes 1992, section 62A.153, is amended to read:

62A.153 FREE STANDING AMBULATORY SURGICAL CENTERS OUTPATIENT MEDICAL AND SURGICAL SERVICES.

No policy or plan of health, medical, hospitalization, or accident and sickness insurance regulated under this chapter, or subscriber contract provided by a nonprofit health service plan corporation regulated under chapter 62C that provides coverage for services in a hospital shall be issued, renewed, continued, delivered, issued for delivery or executed in this state, or approved for issuance or renewal in this state by the commissioner of commerce unless the policy, plan or contract specifically provides coverage for a health care treatment or service rendered by a free standing ambulatory surgical center or facilities offering ambulatory medical service 24 hours a day seven days a week, which are not

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part of a hospital, but have been reviewed and approved by the state commissioner of health to provide the treatment or service; surgery on an outpatient basis at a facility equipped to perform these services, whether or not the facility is part of a hospital. Coverage shall be on the same basis as coverage provided for the same health care treatment or service rendered by in a hospital.

Sec. 31. Minnesota Statutes 1992, section 62A.43, subdivision 4, is amended to read:

Subd. 4. **OTHER POLICIES NOT PROHIBITED.** The prohibition in this section or the requirements of section 62A.31, subdivision 1, against the sale of duplicate Medicare supplement coverage ~~does do~~ not preclude the sale of insurance coverage, such as travel, accident and sickness coverage, the effect or purpose of which is not to supplement Medicare coverage. Notwithstanding this provision, if the commissioner determines that the coverage being sold is in fact Medicare supplement insurance, the commissioner shall notify the insurer in writing of the determination. If the insurer does not thereafter comply with sections 62A.31 to 62A.44, the commissioner may, pursuant to chapter 14, revoke or suspend the insurer's authority to sell accident and health insurance in this state or impose a civil penalty not to exceed \$10,000, or both.

Sec. 32. **[62A.49] HOME CARE SERVICES COVERAGE.**

Subdivision 1. GENERALLY. Section 62A.48 does not prohibit the sale of policies, certificates, subscriber contracts, or other evidences of coverage that provide home care services only. This does not, however, remove the requirement that home care service benefits must be provided as part of a long-term care policy pursuant to that section. Home care services only policies may be sold, provided that they meet the requirements set forth in sections 62A.46 to 62A.56, except that they do not have to meet those conditions that relate to long-term care in nursing facilities. Disclosures and representations regarding these policies must be adjusted accordingly to remove references to coverage for nursing home care.

Subd. 2. PROVIDER NETWORKS AND MANAGED CARE. Home health care services issued pursuant to this section may be provided through a limited provider network and may employ managed care practices. If these methods are used, they must be adequately disclosed within the policy and any advertisements or representations regarding coverage. Policies may not be sold in areas where there are not sufficient providers to meet the needs of the policyholders located in that area.

Sec. 33. **[62A.615] PREEXISTING CONDITIONS; LIMITATIONS ON CANCELLATIONS, RESCISSIONS, OR RESTRICTIONS ON COVERAGE.**

No insurer may cancel or rescind a health insurance policy for a preexisting condition of which the application or other information provided by the insured reasonably gave the insurer notice. No insurer may restrict coverage for a preexisting condition of which the application or other information provided by the

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insured reasonably gave the insurer notice unless the coverage is restricted at the time the policy is issued and the restriction is disclosed in writing to the insured at the time the policy is issued.

Sec. 34. Minnesota Statutes 1992, section 62E.05, is amended to read:

62E.05 CERTIFICATION OF QUALIFIED PLANS.

Upon application by an insurer, fraternal, or employer for certification of a plan of health coverage as a qualified plan or a qualified medicare supplement plan for the purposes of sections 62E.01 to 62E.16, the commissioner shall make a determination within 90 days as to whether the plan is qualified. All plans of health coverage, except Medicare supplement policies, shall be labeled as "qualified" or "nonqualified" on the front of the policy or evidence of insurance. All qualified plans shall indicate whether they are number one, two, or three coverage plans.

Sec. 35. Minnesota Statutes 1992, section 62E.19, subdivision 1, is amended to read:

Subdivision 1. **EMPLOYER LIABILITY.** An employer is liable to the association for the costs of any preexisting conditions of the employer's former employees or their dependents during the first six months of coverage under the state comprehensive health insurance plan under the following conditions:

(1)(i) the employer has terminated or laid off employees and is required to meet the notice requirements under section 268.976, subdivision 3;

(2) (ii) the employer has failed to provide, arrange for, or make available continuation health insurance coverage required to be provided under federal or state law to employees or their dependents; and

(3) (iii) the employer's former employees or their dependents enroll in the state comprehensive health insurance plan with a waiver of the preexisting condition limitation under section 62E.14, subdivision 4a or 5; or

(4) (2)(i) the employer has terminated or allowed the employer's plan of health insurance coverage to lapse within 90 days prior to the date of termination or layoff of an employee; and

(5) (ii) the employer's former employees or their dependents enroll in the state comprehensive health insurance plan with a waiver of the preexisting condition limitation under section 62E.14, subdivision 4a or 5.

The employer shall pay a special assessment to the association for the costs of the preexisting conditions. The special assessment may be assessed before the association makes the annual determination of each contributing member's liability as required under this chapter. The association may enforce the obligation to pay the special assessment by action, as a claim in an insolvency proceeding, or by any other method not prohibited by law.

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If the association makes the special assessment permitted by this subdivision, the association may also make any assessment of contributing members otherwise permitted by law, without regard to the special assessment permitted by this subdivision. Contributing members must pay the assessment, subject to refund or adjustment in the event of receipt by the association of any portion of the special assessment.

Sec. 36. Minnesota Statutes 1992, section 62H.01, is amended to read:

62H.01 JOINT SELF-INSURANCE EMPLOYEE HEALTH PLAN.

Any two or more employers, excluding the state and its political subdivisions as described in section 471.617, subdivision 1, who are authorized to transact business in Minnesota may jointly self-insure employee health, dental, or short-term disability benefits, or other benefits permitted under the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 et seq. Joint plans must have a minimum of 100 covered employees and meet all conditions and terms of sections 62H.01 to 62H.08. Joint plans covering employers not resident in Minnesota must meet the requirements of sections 62H.01 to 62H.08 as if the portion of the plan covering Minnesota resident employees was treated as a separate plan. A plan may cover employees resident in other states only if the plan complies with the applicable laws of that state.

A multiple employer welfare arrangement as defined in United States Code, title 29, section 1002(40)(a), is subject to this chapter to the extent authorized by the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 et seq.

Sec. 37. [62H.10] DEFINITIONS.

Subdivision 1. SCOPE. For purposes of sections 62H.10 to 62H.17, the terms in this section have the meanings given them.

Subd. 2. AGENT. "Agent" means an agent as defined under section 60A.02, subdivision 7.

Subd. 3. ARRANGEMENT. "Arrangement" means a fund, trust, plan, program, or other mechanism by which a person provides, or attempts to provide, health care benefits to individuals.

Subd. 4. BROKER. "Broker" means an agent engaged in brokerage business pursuant to section 60K.08.

Subd. 5. COLLECTIVELY BARGAINED ARRANGEMENT. "Collectively bargained arrangement" means an arrangement which provides or represents that it is providing health care benefits or coverage under or pursuant to one or more collective bargaining agreements.

Subd. 6. COMMISSIONER. "Commissioner" means the commissioner of commerce.

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Subd. 7. EMPLOYEE LEASING ARRANGEMENT. "Employee leasing arrangement" means a labor leasing, staff leasing, employee leasing, contract labor, extended employee staffing or supply, or other arrangement, under contract or otherwise, whereby one business or entity leases or obtains all or a significant number of its workers from another business or entity.

Subd. 8. EMPLOYEE WELFARE BENEFIT PLAN. "Employee welfare benefit plan" means a plan, fund, or program established or maintained by an employer or by an employee organization, or by both, to the extent that the plan, fund, or program was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death, or unemployment.

Subd. 9. FULLY INSURED BY A LICENSED INSURER. "Fully insured by a licensed insurer" means that, for all of the health care benefits or coverage provided or offered by or through an arrangement:

(1) a licensed insurer is directly obligated by contract to provide all of the coverage to or under the arrangement;

(2) the licensed insurer assumes all of the risk for payment of all covered services or benefits; and

(3) the liability of the licensed insurer for payment of the covered services or benefits is directly to the individual employee, member, or dependent receiving the health care services.

Subd. 10. LICENSED INSURER. "Licensed insurer" means an insurer having a certificate of authority to transact insurance in this state.

Subd. 11. REPORTABLE MEWA. "Reportable MEWA" means a person that provides health care benefits or coverage to the employees of two or more employers. Reportable MEWA does not include:

(1) a licensed insurer;

(2) an arrangement which is fully insured by a licensed insurer;

(3) a collectively bargained arrangement;

(4) an employee welfare benefit plan established or maintained by a rural electric cooperative or a rural telephone cooperative;

(5) an employee leasing arrangement; or

(6) a joint self-insurance employee health plan, which includes but is not limited to multiple employee welfare arrangements and multiple employer welfare arrangements (MEWAs), having a certificate of authority to transact insurance in this state pursuant to chapter 62H.

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Subd. 12. RURAL ELECTRIC COOPERATIVE. "Rural electric cooperative" means:

(1) an organization that is exempt from tax under United States Code, title 26, section 501(a), and which is engaged primarily in providing electric service on a mutual or cooperative basis; or

(2) an organization described in United States Code, title 26, section 501(c), paragraph (4) or (6), which is exempt from tax under United States Code, title 26, section 501(a), and at least 80 percent of the members of which are organizations described in clause (1).

Subd. 13. RURAL TELEPHONE COOPERATIVE. "Rural telephone cooperative" means an organization described in United States Code, title 26, section 501(c), paragraph (4) or (6), which is exempt from tax under United States Code, title 26, section 501(a), and at least 80 percent of the members of which are organizations engaged primarily in providing telephone service to rural areas of the United States on a mutual, cooperative, or other basis.

Subd. 14. THIRD PARTY ADMINISTRATOR. "Third party administrator" means a vendor of risk management services or an entity administering a self-insurance or insurance plan under section 60A.23.

Sec. 38. [62H.11] AGENTS AND BROKERS PROHIBITED FROM ASSISTING REPORTABLE MEWAS PRIOR TO FILING.

(a) No agent or broker may solicit, advertise, or market in this state health benefits or coverage from, or accept an application for, or place coverage for a person who resides in this state with, a reportable MEWA unless the agent or broker first files with the commissioner the information required under section 62H.16.

(b) No agent or broker may solicit another agent or broker to enter into an arrangement to solicit, advertise, or market services, health benefits, or coverage of a reportable MEWA unless the agent or broker first files with the commissioner the information required under section 62H.16.

Sec. 39. [62H.12] AGENTS AND BROKERS PROHIBITED FROM ASSISTING EMPLOYEE LEASING ARRANGEMENTS PRIOR TO FILING.

(a) No agent or broker may solicit, advertise, or market in this state the services, health benefits, or coverage of an employee leasing arrangement or a person or arrangement which represents itself as an employee leasing arrangement unless the agent or broker first files with the commissioner the information required under section 62H.16.

(b) No agent or broker may solicit another agent or broker to enter into an arrangement to solicit, advertise, or market the services, health benefits, or coverage of an employee leasing arrangement unless the agent or broker first files with the commissioner the information required under section 62H.16.

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Sec. 40. [62H.13] AGENTS AND BROKERS PROHIBITED FROM ASSISTING COLLECTIVELY BARGAINED ARRANGEMENTS PRIOR TO FILING.

(a) No agent or broker may solicit, advertise, or market in this state health benefits or coverage from, or accept an application for, or place coverage for a person who resides in this state with, a collectively bargained arrangement or an arrangement that represents itself as a collectively bargained arrangement unless the agent or broker first files with the commissioner the information required under section 62H.16.

(b) No agent or broker may solicit another agent or broker to enter into an arrangement to solicit, advertise, or market the health benefits or coverage of a collectively bargained arrangement unless the agent or broker first files with the commissioner the information required under section 62H.16.

Sec. 41. [62H.14] THIRD PARTY ADMINISTRATORS AND LICENSED INSURERS PROHIBITED FROM ASSISTING REPORTABLE MEWAS PRIOR TO FILING.

(a) No third party administrator may solicit or effect coverage of, underwrite for, collect charges or premium for, or adjust or settle claims of a resident of this state for, or enter into any agreement to perform any of those functions for, a reportable MEWA that provides coverage to residents of this state unless the third party administrator first files with the commissioner the information required under section 62H.16.

(b) No licensed insurer may solicit or effect coverage of, underwrite for, collect charges or premiums for, adjust or settle claims of a resident of this state for, or enter into any agreement to perform any of those functions for a reportable MEWA that provides coverage to residents of this state unless the insurer first files with the commissioner the information required under section 62H.16.

(c) A licensed insurer that issues or has issued any insurance coverage to a reportable MEWA that covers residents of this state, including, but not limited to, specific or aggregate stop-loss coverage, shall file with the commissioner the information required under section 62H.16 within 30 days after the coverage is issued or within 30 days after the date the reportable MEWA first provides coverage to a resident of this state, whichever is later.

Sec. 42. [62H.15] LACK OF KNOWLEDGE NOT A DEFENSE.

(a) Lack of knowledge or intent to deceive with respect to the organization or status of insurance coverage of a reportable MEWA, employee leasing firm, or collectively bargained arrangement is not a defense to a violation of sections 62H.10 to 62H.17.

(b) A filing under sections 62H.10 to 62H.17 is solely for the purpose of providing information to the commissioner. Sections 62H.10 to 62H.17 and a filing under those sections do not authorize or license a reportable MEWA,

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employee leasing firm, collectively bargained arrangement, or any other arrangement to engage in business in this state if otherwise prohibited by law.

Sec. 43. [62H.16] INFORMATION REQUIRED TO BE FILED AND KEPT CURRENT.

(a) An agent, broker, third party administrator, or insurer required to file under sections 62H.10 to 62H.17 shall file with the commissioner all of the following information on a form prescribed by the commissioner:

(1) a copy of the organizational documents of the reportable MEWA, employee leasing firm, or collectively bargained arrangement, including the articles of incorporation and bylaws, partnership agreement, or trust instrument;

(2) a copy of each insurance or reinsurance contract that purports to insure or guarantee all or any portion of benefits or coverage offered by the reportable MEWA, employee leasing firm, or collectively bargained arrangement to a person who resides in this state;

(3) copies of the benefit plan description and other materials intended to be distributed to potential purchasers; and

(4) the names and addresses of all persons performing or expected to perform the functions of a third party administrator for the reportable MEWA, employee leasing firm, or collectively bargained arrangement.

(b) A filing under sections 62H.10 to 62H.17 is ineffective and is not in compliance with those sections if it is incomplete or inaccurate in a material respect.

(c) A person who has made a filing under sections 62H.10 to 62H.17 shall amend the filing within 30 days of the date the person becomes aware, or exercising due diligence should have become aware, of any material change to the information required to be filed. The amended filing must accurately reflect the material change to the information originally filed.

Sec. 44. [62H.17] LIABILITY FOR VIOLATION.

If an arrangement that is an unauthorized insurer fails to pay a claim or loss in this state within the provisions of its contract, a person who violates sections 62H.10 to 62H.17 with respect to the arrangement is liable to the insured for the full amount of the claim or loss in the manner provided by the provisions of the insurance contract.

Sec. 45. Minnesota Statutes 1992, section 62I.02, is amended to read:

62I.02 MINNESOTA JOINT UNDERWRITING ASSOCIATION.

Subdivision 1. **CREATION.** The Minnesota joint underwriting association is created to provide insurance coverage to any person or entity unable to obtain

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insurance through ordinary methods if the insurance is required by statute, ordinance, or otherwise required by law, or is necessary to earn a livelihood or conduct a business and serves a public purpose, including, but not limited to, liquor liability. Prudent business practice or mere desire to have insurance coverage is not a sufficient standard for the association to offer insurance coverage to a person or entity. For purposes of this subdivision, directors' and officers' liability insurance is considered to be a business necessity and not merely a prudent business practice. The association shall be specifically authorized to provide insurance coverage to day care providers, foster parents, foster homes, developmental achievement centers, group homes, and rehabilitation facilities for mentally, emotionally, or physically handicapped persons, and citizen participation groups established pursuant to the housing and community redevelopment act of 1974, Public Law Number 93-383. Because the activities of certain persons or entities present a risk that is so great, the association shall not offer insurance coverage to any person or entity the board of directors of the association determines is outside the intended scope and purpose of the association because of the gravity of the risk of offering insurance coverage. The association shall not offer environmental impairment liability or product liability insurance. The association shall not offer coverage for activities that are conducted substantially outside the state of Minnesota unless the insurance is required by statute, ordinance, or otherwise required by law. Every insurer authorized to write property and casualty insurance and 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.

Subd. 2. **DIRECTOR.** The association shall have a board of directors composed of 11 persons chosen as follows: five persons elected by members of the association at a meeting called by the commissioner; three public members, as defined in section 214.02, appointed by the commissioner; and three members, appointed by the commissioner representing groups to whom coverage has been extended by the association. The terms of the members shall be four years. Terms may be staggered so that no more than six members are appointed or elected every two years. Members may serve until their successors are appointed or elected. If at any time no coverage is currently extended by the association, then either additional public members may be appointed to fill these three positions or, at the option of the commissioner, representatives from groups who had previously been covered by the association may serve as directors.

Subd. 3. **REAUTHORIZATION.** The authorization to issue insurance to day care providers, foster parents, foster homes, developmental activity centers, group homes, and rehabilitation facilities for mentally, emotionally, or physically handicapped persons, and citizen participation groups established pursuant to the housing and community redevelopment act of 1974, Public Law Number 93-383, is valid for a period of two years from the date it was made. The commissioner may reauthorize the issuance of insurance for these groups and other classes of business for additional two-year periods pursuant to sections 62I.21 and 62I.22. This subdivision is not a limitation on the number of times the commissioner may reauthorize the issuance of insurance.

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Subd. 4. LIQUOR LIABILITY. Policies and contracts of coverage issued under this section for the purposes of providing liquor liability insurance must contain the usual and customary provisions of liability insurance policies, and must contain at least the minimum coverage required by section 340A.409, subdivision 1, or the local governing unit.

Subd. 5. ACCOUNTS. For the purposes of administration and assessment, the association shall be divided into two separate accounts: (1) the property and casualty insurance account; and (2) the personal injury liability insurance account.

Sec. 46. Minnesota Statutes 1992, section 62I.03, is amended to read:

62I.03 DEFINITION.

Subdivision 1. **SCOPE.** As used in sections 62I.01 to 62I.22 the following terms have the meanings given them in this section.

Subd. 2. **ASSOCIATION.** "Association" means the Minnesota joint underwriting association.

Subd. 3. **COMMISSIONER.** "Commissioner" means the commissioner of commerce.

Subd. 4. **DIRECT WRITTEN PREMIUMS.** "Direct written premiums" means that amount at column (2), lines 5, 8, 9, 17, 21.2, 22, 23, 24, 25, 26, and 27, page 14, of the annual statement filed annually with the department of commerce pursuant to section 60A.13.

Subd. 5. **DEFICIT.** "Deficit" means, for a particular policy year, that amount by which total paid and outstanding losses and loss adjustment expenses exceed premium revenue, including retrospective premium revenue.

Subd. 6. NET DIRECT PREMIUMS. For purposes of liquor liability insurance, "net direct premiums" means gross direct premiums written on personal injury liability insurance, including the liability component of multiple peril package policies as computed by the commissioner, less return premiums for the unused or unabsorbed portions of premium deposits.

Subd. 7. PERSONAL INJURY LIABILITY INSURANCE. "Personal injury liability insurance" means insurance described in section 60A.06, subdivision 1, clause (13).

Sec. 47. Minnesota Statutes 1992, section 62I.07, is amended to read:

62I.07 MEMBERSHIP ASSESSMENTS.

Subdivision 1. GENERAL ASSESSMENT. Each member of the association that is authorized to write property and casualty insurance in the state shall participate in its losses and expenses in the proportion that the direct written

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premiums of the member on the kinds of insurance in that account bears to the total aggregate direct written premiums written in this state by all members on the kinds of insurance in that account. The members' participation in the association shall be determined annually on the direct written premiums written during the preceding calendar year as reported on the annual statements and other reports filed by the member with the commissioner.

Subd. 2. PERSONAL INJURY LIABILITY INSURANCE ASSESSMENT. A member of the association shall participate in its writings, expenses, servicing allowance, management fees, and losses in the proportion that the net direct premiums of the member, excluding that portion of premiums attributable to the operation of the association, written during the preceding calendar year on the kinds of insurance in that account bears to the aggregate net direct premiums written in this state by all members on the kinds of insurance in that account. The member's participation in the association shall be determined annually on the basis of net direct premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the member with the commissioner.

Sec. 48. Minnesota Statutes 1992, section 62I.13, subdivision 1, is amended to read:

Subdivision 1. GENERALLY. To be eligible to participate in the association, an applicant must apply for coverage through the market assistance program, as required by section 62I.08. Except as provided by subdivision 4, the market assistance program has 30 days from the receipt of the application to secure an offer of coverage for the applicant. If the market assistance program is able to secure an offer of coverage for the applicant and if the offer of coverage would not be considered a refusal for purposes of the association, then coverage may not be extended by the association. Eligibility for coverage by the association is also subject to the terms and conditions of subdivisions 2 and 3.

Sec. 49. 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. 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 percent in excess of the joint underwriting association rates for similar coverage and risk or 20 percent in excess of the joint underwriting association rates for liquor liability coverages. However, the offered rate 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

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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. 50. Minnesota Statutes 1992, section 62I.20, is amended to read:

62I.20 MERGER OF OTHER PLANS.

Upon application by the governing body of ~~the liquor liability assigned risk plan authorized by section 340A.409 or~~ the joint underwriting association authorized by chapter 62F to be merged with the association, the commissioner shall, if the commissioner deems it appropriate, hold a public hearing in regard to the merger. The commissioner upon motion or upon the motion of any insured under plans shall hold a hearing. Unless it can be shown that the rights of the insured would be adversely affected by the merger or that it would be less efficient or more costly to merge the plans, the commissioner shall consent to the merger. The commissioner shall also consent to the merger at any time there are less than ten insureds in any plan.

Sec. 51. Minnesota Statutes 1992, section 65A.01, subdivision 1, is amended to read:

Subdivision 1. **DESIGNATION AND SCOPE.** The printed form of a policy of fire insurance, as set forth in subdivisions 3 and 3a, shall be known and designated as the "Minnesota standard fire insurance policy" to be used in the state of Minnesota. No policy or contract of fire insurance shall be made, issued or delivered by any insurer including reciprocals or interinsurance exchanges or any agent or representative thereof, on any property in this state, unless it shall provide the specified coverage and conform as to all provisions, stipulations, and conditions, with such form of policy, except as provided in ~~section sections~~ 60A.08, subdivision 9; 60A.30 to 60A.35; 65A.06; 65A.29; 72A.20, subdivision 17; and other statutes containing specific requirements that are inconsistent with the form of this policy. Any policy or contract otherwise subject to the provisions of this subdivision, subdivisions 3 and 3a which includes either on an unspecified basis as to coverage or for a single premium, coverage against the peril of fire and coverage against other perils may be issued without incorporating the exact language of the Minnesota standard fire insurance policy, provided: Such policy or contract shall, with respect to the peril of fire, afford the insured all the rights and benefits of the Minnesota standard fire insurance policy and such additional benefits as the policy provides; the provisions in relation to mortgagee interests and obligations in said Minnesota standard fire insurance policy shall be incorporated therein without change; such policy or contract is complete as to its terms of coverage; and, the commissioner is satisfied that such policy or contract complies with the provisions hereof.

Sec. 52. Minnesota Statutes 1992, section 65A.29, subdivision 7, is amended to read:

Subd. 7. **RENEWAL; NOTICE REQUIREMENT.** No insurer shall refuse

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to renew, or reduce limits of coverage, or eliminate any coverage in a homeowner's insurance policy unless it mails or delivers to the insured, at the address shown in the policy, at least 60 days advance notice of its intention. The notice must contain the specific underwriting or other reason or reasons for the indicated action.

Proof of mailing this notice to the insured at the address shown in the policy is sufficient proof that the notice required by this section has been given.

Sec. 53. Minnesota Statutes 1992, section 65B.49, subdivision 3, is amended to read:

Subd. 3. **RESIDUAL LIABILITY INSURANCE.** (1) Each plan of reparation security shall also contain stated limits of liability, exclusive of interest and costs, with respect to each vehicle for which coverage is thereby granted, of not less than \$30,000 because of bodily injury to one person in any one accident and, subject to said limit for one person, of not less than \$60,000 because of injury to two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, of not less than \$10,000 because of such injury to or destruction of property of others in any one accident.

(2) Under residual liability insurance the reparation obligor shall be liable to pay, on behalf of the insured, sums which the insured is legally obligated to pay as damages because of bodily injury and property damage arising out of the ownership, maintenance or use of a motor vehicle if the injury or damage occurs within this state, the United States of America, its territories or possessions, or Canada. A reparation obligor shall also be liable to pay sums which another reparation obligor is entitled to recover under the indemnity provisions of section 65B.53, subdivision 1.

(3) Every plan of reparation security shall be subject to the following provisions which need not be contained therein:

(a) The liability of the reparation obligor with respect to the residual liability coverage required by this clause shall become absolute whenever injury or damage occurs; such liability may not be canceled or annulled by any agreement between the reparation obligor and the insured after the occurrence of the injury or damage; no statement made by the insured or on the insured's behalf and no violation of said policy shall defeat or void said policy.

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the reparation obligor to make payment on account of such injury or damage.

(c) The reparation obligor shall have the right to settle any claim covered by the residual liability insurance policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability for the accident out of which such claim arose.

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(d) Except as provided in subdivision 5a, a residual liability insurance policy shall be excess of a nonowned vehicle policy whether the nonowned vehicle is borrowed or rented, or used for business or pleasure. A nonowned vehicle is one not used or provided on a regular basis.

Sec. 54. Minnesota Statutes 1992, section 72A.20, subdivision 29, is amended to read:

Subd. 29. **HIV TESTS; CRIME VICTIMS.** No insurer regulated under chapter 61A or 62B, or providing health, medical, hospitalization, or accident and sickness insurance regulated under chapter 62A, or nonprofit health services corporation regulated under chapter 62C, health maintenance organization regulated under chapter 62D, or fraternal benefit society regulated under chapter 64B, may:

(1) obtain or use the performance of or the results of a test to determine the presence of the human immune deficiency virus (HIV) antibody performed on an offender under section 611A.19 or performed on a crime victim who was exposed to or had contact with an offender's bodily fluids during commission of a crime that was reported to law enforcement officials, in order to make an underwriting decision, cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract; or

(2) ask an applicant for coverage or a person already covered whether the person has: (i) had a test performed for the reason set forth in clause (1); or (ii) been the victim of an assault or any other crime which involves bodily contact with the offender.

A question that purports to require an answer that would provide information regarding a test performed for the reason set forth in clause (1) may be interpreted as excluding this test. An answer that does not mention the test is considered to be a truthful answer for all purposes. An authorization for the release of medical records for insurance purposes must specifically exclude any test performed for the purpose set forth in clause (1) and must be read as providing this exclusion regardless of whether the exclusion is expressly stated. This subdivision does not affect tests conducted for purposes other than those described in clause (1), including any test to determine the presence of the human deficiency virus (HIV) antibody if such test was performed at the insurer's direction as part of the insurer's normal underwriting requirements.

Sec. 55. Minnesota Statutes 1992, section 72A.20, is amended by adding a subdivision to read:

Subd. 30. RECORDS RETENTION. An insurer shall retain copies of all underwriting documents, policy forms, and applications for three years from the effective date of the policy. This subdivision does not relieve the insurer of its obligation to produce these documents to the department after the retention period has expired in connection with an enforcement action or administrative proceeding against the insurer from whom the documents are requested, if the

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insurer has retained the documents. Records required to be retained by this section may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process which accurately reproduces or forms a durable medium for the reproduction of a record.

Sec. 56. Minnesota Statutes 1992, section 72A.201, subdivision 9, is amended to read:

Subd. 9. **STANDARDS FOR COMMUNICATIONS WITH THE DEPARTMENT.** In addition to the acts specified elsewhere in this section and section 72A.20, the following acts by an insurer, adjuster, or a self-insured or self-insurance administrator constitute unfair settlement practices:

(1) failure to respond, within 15 working days after receipt of an inquiry from the commissioner, about a claim, to the commissioner;

(2) failure, upon request by the commissioner, to make specific claim files available to the commissioner;

(3) failure to include in the claim file all written communications and transactions emanating from, or received by, the insurer, as well as all notes and work papers relating to the claim. All written communications and notes referring to verbal communications must be dated by the insurer;

(4) failure to submit to the commissioner, when requested, any summary of complaint data reasonably required;

(5) failure to compile and maintain a file on all complaints. If the complaint deals with a loss, the file must contain adequate information so as to permit easy retrieval of the entire file. If the complaint alleges that the company, or agent of the company, or any agent producing business written by the company is engaged in any unfair, false, misleading, dishonest, fraudulent, untrustworthy, coercive, or financially irresponsible practice, or has violated any insurance law or rule, the file must indicate what investigation or action was taken by the company. The complaint file must be maintained for at least four years after the date of the complaint.

For purposes of clause (1) the term insurer includes an agent of the insurer. The insurer must have been sent a copy of any communication to an agent to be held in violation of this provision.

Sec. 57. Minnesota Statutes 1992, section 72A.41, subdivision 1, is amended to read:

Subdivision 1. It is unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this state, as set forth in subdivision 2, without a certificate of authority from the commissioner; provided that this subdivision does not apply to: (a) contracts of insurance procured by agents under the authority of sections 60A.195 to 60A.209; (b) contracts of reinsurance and contracts of ocean or wet marine and transportation insurance;

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(c) transactions in this state involving a policy lawfully solicited, written and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance and which transactions are subsequent to the issuance of the policy; (d) ~~transactions in this state involving group or blanket insurance and group annuities where the master policy of such groups was lawfully issued and delivered in a state in which the company was authorized to do an insurance business where, except for group annuities, the insurer complies with section 72A.13. The commissioner may require the insurer which has issued such master policy to submit any information as the commissioner reasonably requires in order to determine if probable cause exists to convene a hearing to determine whether the total charges for the insurance to the persons insured are unreasonable in relation to the benefits provided under the policy;~~ (e) transactions in this state involving a policy of insurance or annuity issued prior to July 1, 1967; or ~~(f)~~ (e) contract of insurance procured under the authority of section 60A.19, subdivision 8; or ~~(g)~~ (f) transactions in this state involving contracts of insurance covering property or risks not located in this state.

Sec. 58. Minnesota Statutes 1992, section 72B.03, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT; EXCEPTIONS.** Except as otherwise provided, no person shall act as an independent adjuster, public adjuster, or public adjuster solicitor for money, a commission, or any other thing of value, unless such person shall first obtain from the commissioner a license. No license shall be required for a person:

~~(a) Undergoing a training or education program under the guidance of a licensed adjuster and who is registered with the commissioner for a one year temporary permit;~~

~~(b) (1) a person acting in a catastrophe or emergency situation, and who has registered with the commissioner for that purpose;~~

~~(c) (2) a nonresident adjuster who occasionally is in this state to adjust a single loss; provided, however, that if a nonresident adjusts more than six losses in this state in one year the adjuster must qualify for and receive a nonresident's license as provided in sections 72B.01 to 72B.14, and provided the adjuster's domiciliary state affords a like privilege.~~

Sec. 59. Minnesota Statutes 1992, section 72B.04, subdivision 2, is amended to read:

Subd. 2. **QUALIFICATIONS.** An applicant for licensing as an adjuster under sections 72B.01 to 72B.14 shall be at least 18 years of age; ~~and shall have one year's training and experience in adjusting insurance claims for damage or loss from risks in the field stated in the application.~~ The applicant shall be competent and trustworthy and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections

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72B.01 to 72B.14 within the three years next preceding the date of the application.

An applicant for licensing as a public adjuster solicitor under sections 72B.01 to 72B.14 shall be at least 18 years of age, shall be competent and trustworthy, and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of the application.

In the case of any applicant who has been convicted of a felony within the ten years next preceding the date of the application, and who in the judgment of the commissioner, meets the other qualifications, the commissioner may impose the additional requirement of the filing of a bond in accordance with the requirements of section 72B.08, subdivision 8.

Sec. 60. Minnesota Statutes 1992, section 176.181, subdivision 2, is amended to read:

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 commerce exempting the employer from insuring liability for compensation and permitting self-insurance of the liability. The terms, conditions and requirements governing self-insurance shall be established by the commissioner pursuant to chapter 14. The commissioner of commerce 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 commerce, 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 operations as a distinct and separate risk. An employer desiring to be exempted from insuring liability for compensation shall make application to the commissioner of commerce, showing financial ability to pay the compensation, whereupon by written order the commissioner of commerce, on deeming it proper, may make an exemption. An employer may establish financial ability to pay compensation by: ~~(1) providing financial statements of the employer to the commissioner of commerce; or (2) filing a surety bond or bank letter of credit with the commissioner of commerce in an amount equal to the anticipated annual compensation costs of the employer; but in no event less than \$100,000.~~ Upon ten days' written notice the commissioner of commerce may revoke the order granting an exemption, in which event the employer shall immediately insure the liability. As a condition for the granting of an exemption the commissioner of commerce may require the employer to furnish security the commissioner of commerce considers sufficient to insure payment of all claims under this chapter, consistent with subdivision 2b. If the required security is in the form of currency or negotiable

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bonds, the commissioner of commerce 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 commerce may by written order to the state treasurer require the treasurer 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 commerce and awards made against any such self-insurer by the commissioner of commerce shall be paid to the persons entitled thereto by the state treasurer upon warrants prepared by the commissioner of commerce 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 commerce, at any time, upon at least ten days 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, or exempt from licensure, pursuant to section 60A.23, subdivision 8, to do so by the commissioner of commerce. 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 commerce 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 commerce 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 commerce.

(c) To carry out the purposes of this subdivision, the commissioner of commerce may promulgate administrative rules, including emergency rules, pursuant to sections 14.001 to 14.69. These rules may:

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

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(ii) establish standards and guidelines consistent with subdivision 2b 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. The rules may not require excessive cash payments to a common claims fund by group self-insurers. However, a level of funding in the common claims fund must always be maintained at not less than one year's claim losses paid in the most recent year.

Sec. 61. Minnesota Statutes 1992, section 340A.409, subdivision 2, is amended to read:

Subd. 2. **MARKET ASSISTANCE.** ~~The commissioner of commerce shall advise licensees and municipalities subject to the financial responsibility requirements of subdivision 1 of those persons offering insurance coverage. The commissioner of commerce shall establish a program to assist licensees in obtaining insurance coverage. The program shall include a committee appointed by the commissioner of commerce that is representative of insurance carriers and producers, liquor vendors, and the public. No less than one-half of the committee members shall represent casualty insurers and surplus lines agents or brokers. The commissioner of commerce or the commissioner's designated representative shall serve as an ex officio member of the committee. The committee shall review and act upon all properly executed applications. If the committee finds that it cannot assist in securing insurance coverage, it shall notify the applicant in writing with a full explanation and recommendation for enhancing its ability to secure insurance. The commissioner of commerce shall, if necessary, establish an assigned risk plan pursuant to subdivision 3. The market assistance plan of the Minnesota joint underwriting association shall assist licensees in obtaining insurance coverage.~~

Sec. 62. Minnesota Statutes 1992, section 340A.409, subdivision 3, is amended to read:

Subd. 3. **ASSIGNED RISK PLAN MINNESOTA JOINT UNDERWRITING ASSOCIATION.** (a) The purpose of the assigned risk plan is to Minnesota joint underwriting association shall provide coverage required by subdivision 1 to persons rejected under this subdivision.

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(b) An insurer who offers liquor liability insurance that refuses to write the coverage required by subdivision 1 shall furnish the applicant with a written notice of refusal. The rejected applicant shall file a copy of the notice of refusal with the commissioner of public safety at the time of application for coverage to the assigned risk plan and the market assistance program.

A written notice of refusal must be provided to any applicant who has requested only liquor liability insurance if the insurer chooses to only offer liquor liability insurance in combination with other types of insurance.

A written notice of refusal must be provided by an insurer to any applicant who receives an offer of coverage from that insurer that is in excess of the rate charged by the assigned risk plan for similar coverage and risk. A notice is not required if the rate for the coverage offered is less than 20 percent in excess of the assigned risk plan rates, provided that the offered rate is the rate that the insurer has filed with the commissioner of commerce if the insurer is required to file its rates with the commissioner. If the insurer is not required to file its rates with the commissioner, the offered rate must be the rate generally charged by the insurer for similar coverage and risk.

A notice of refusal is not required to be filed if there is not an insurer offering liquor liability insurance in the state.

To be eligible to participate in the assigned risk plan an applicant must apply for coverage through the market assistance program. Application to the market assistance program must be made no later than the time of application to the assigned risk plan. If the market assistance program is unable to secure coverage then coverage may be extended by the assigned risk plan.

(c) The commissioner of commerce may enter into service contracts as necessary or beneficial to accomplish the purposes of the assigned risk plan including servicing of policies or contracts of coverage, data management, and assessment collections. Services related to the administration of policies or contracts of coverages must be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (13), or a qualified vendor of risk management services. A qualified insurer or vendor of risk management services must possess sufficient financial, professional, administrative, and personnel resources to provide the services required for operation of the plan. The cost of all services contracted for are an obligation of the assigned risk plan.

(d) The commissioner of commerce may assess all insurers licensed under section 60A.06, subdivision 1, clause (13), an amount sufficient to fully fund the obligations of the assigned risk plan if the commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations. The assessment of each insurer must be in a proportion equal to the proportion which the amount of insurance written as reported on page 14 of the annual statement under line 5, commercial multiperil, and line 17, other liability, during the preceding calendar year by that insurer bears to the total written by all such carriers for such lines.

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(e) Policies and contracts of coverage issued under this subdivision must contain the usual and customary provisions of liability insurance policies, and must contain at least the minimum coverage required by subdivision 1 or the local governing unit.

(f) Assigned risk policies and contracts of coverage are subject to premium tax pursuant to section 60A.15.

(g) Insureds served by the assigned risk plan must be charged premiums based upon a rating plan approved by the commissioner of commerce. Assigned risk premiums must be on an actuarially sound basis. The rating plan approved by the commissioner shall provide for surcharge factors based upon claims reported and losses paid. The commissioner of commerce shall fix the compensation received by the agent of record.

(h) The rating plan may be amended by rule pursuant to chapter 14 or by the following expedited procedures:

(1) Any person may, by written petition served upon the commissioner, request that a hearing be held to amend the rating plan.

(2) The commissioner shall forward a copy of the petition to the chief administrative law judge within three business days of its receipt. The chief administrative law judge shall, within three business days of receipt of the copy of the petition or a request for a hearing by the commissioner, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and the administrative law judge assigned to hear the matter. The hearing date must be set no less than 60 days nor more than 90 days from the date of receipt of the petition by the commissioner.

(3) The commissioner of commerce shall publish a notice of the hearing in the State Register at least 30 days before the hearing date. The notice should be similar to that used for rulemaking under the administrative procedure act. Approval by the administrative law judge of the notice prior to publication is not required.

(4) The hearing and all matters taking place after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45-day requirement.

(5) The commissioner shall render a decision within ten business days of the receipt of the administrative law judge's report.

(6) If all parties to the proceeding agree, any of the previous requirements may be waived or modified.

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~~(7) A petition for a hearing to amend the rating plan received by the commissioner within 180 days of the date of the commissioner's decision in a prior proceeding to amend the rating plan is invalid and requires no action.~~

~~(i) (b) A liquor vendor shall be denied or terminated from coverage through the assigned risk plan Minnesota joint underwriting association if the liquor vendor disregards safety standards, laws, rules, or ordinances pertaining to the offer, sale, or other distribution of liquor.~~

~~The commissioner may by rule establish other conditions for denial or termination from coverage through the assigned risk plan.~~

~~(j) The commissioner of commerce shall adopt rules needed to implement this subdivision. The rules may include:~~

~~(1) appeal procedures from actions of the assigned risk plan;~~

~~(2) formation of an advisory committee composed of insurers, vendors of risk management services and licensees, to advise the commissioner of commerce regarding operation of the plan; and~~

~~(3) applicable rating plans and rating standards.~~

Sec. 63. LIQUOR LIABILITY ASSIGNED RISK PLAN OBLIGATIONS AND LIABILITIES.

The Minnesota joint underwriting association shall assume the obligations of existing contracts and existing liabilities of the liquor liability assigned risk plan.

Sec. 64. Laws 1993, chapter 372, section 8, is amended to read:

Sec. 8. EFFECTIVE DATE.

~~Sections 1 and 2 apply to all franchise contracts or franchise transfer agreements entered into or renewed on or after the effective date, and apply as of July 1, 1993, to franchise contracts in effect on the effective date that have no expiration date.~~

~~Sections 4 to 7 apply to all agreements for private label purchases entered into or renewed on or after July 1, 1993, and to all private label purchases occurring on or after that date.~~

Sec. 65. REVISOR INSTRUCTIONS.

(a) The revisor shall recodify Minnesota Statutes, section 72A.20, subdivision 4a, as section 72A.201, subdivision 4a.

(b) The revisor shall recodify Minnesota Statutes, section 60A.30 as section 60A.351 and section 60A.31 as section 60A.352 and correct internal references in Minnesota Statutes and Minnesota Rules.

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Sec. 66. **REPEALER.**

(a) Minnesota Statutes 1992, sections 72A.45; and 72B.07, are repealed.

(b) Minnesota Rules, parts 2780.4800; 2783.0010; 2783.0020; 2783.0030; 2783.0040; 2783.0050; 2783.0060; 2783.0070; 2783.0080; 2783.0090; and 2783.0100, are repealed. The rates set pursuant to these rules shall continue to apply until changed pursuant to Minnesota Statutes, section 62I.06.

Sec. 67. **EFFECTIVE DATE.**

Sections 61 to 63 and 66, paragraph (b), are effective the day following final enactment.

Section 64 is effective July 1, 1993.

Presented to the governor April 20, 1994

Signed by the governor April 22, 1994, 1:45 p.m.

CHAPTER 486—H.F.No. 524

An act relating to traffic regulations; authorizing rural postal carriers to operate rural mail delivery vehicles equipped with tires having metal studs, with restrictions; requiring permit from commissioner of transportation; providing a penalty; amending Minnesota Statutes 1992, section 169.72, by adding a subdivision.

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

Section 1. Minnesota Statutes 1992, section 169.72; is amended by adding a subdivision to read:

Subd. 5. RURAL POSTAL CARRIERS. (a) A rural mail carrier of the United States postal service may apply to the commissioner for a permit to operate a rural mail delivery vehicle with tires having metal studs. An applicant must submit with the application for the permit (1) verification that the applicant is employed as a United States postal carrier, (2) a map showing the applicant's mail delivery route, and (3) identification of the vehicle the applicant uses on that mail delivery route.

(b) If the commissioner determines that (1) the applicant is employed as a United States postal carrier, and (2) less than 25 percent of the total mileage on the applicant's mail delivery route is paved, the commissioner may issue the permit. A permit under this subdivision is valid beginning November 1 of a calendar year and expires on April 15 of the following calendar year.

(c) A permit under this subdivision authorizes the permit holder to operate

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