unit residential building or public building and arson in the first, second, or third degree was not committed is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Sec. 3. **[609.5633] USE OF IGNITION DEVICES; PETTY MISDEMEANOR.**

A student who uses an ignition device, including a butane or disposable lighter or matches, inside an educational building and under circumstances where there is an obvious risk of fire, and arson in the first, second, third, or fourth degree was not committed, is guilty of a petty misdemeanor. This section does not apply if the student uses the device in a manner authorized by the school.

For the purposes of this section, "student" has the meaning given in section 123B.41, subdivision 11.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective August 1, 1999, and apply to acts committed on or after that date.

Presented to the governor May 14, 1999

Signed by the governor May 18, 1999, 4:19 p.m.

CHAPTER 177—H.F.No. 837

An act relating to insurance; regulating insurers, agents, and coverages; modifying reporting requirements; regulating the rehabilitation and liquidation of insurers; modifying certain notice and disclosure provisions; modifying certain definitions; making technical changes; amending Minnesota Statutes 1998, sections 60A.02, subdivision 1a, and by adding a subdivision; 60A.052, subdivision 2, and by adding a subdivision; 60A.06, subdivisions 1 and 2; 60A.075, by adding a subdivision; 60A.092, subdivisions 6 and 11; 60A.10, subdivision 1; 60A.111, subdivision 1; 60A.13, subdivision 1; 60A.16, subdivisions 2, 3, and 4; 60A.19, subdivision 1; 60A.32; 60B.21, subdivision 2; 60B.25; 60B.26, subdivision 1; 60B.39, subdivision 2; 60B.44, subdivisions 4, 6, and by adding subdivisions; 60D.20, subdivision 2; 60K.02, subdivision 1; 60K.03, subdivisions 2 and 3; 60K.19, subdivisions 7 and 8; 61A.276, subdivision 2; 61A.60, subdivision 1; 61B.19, subdivision 3; 62A.04, subdivision 3; 62A.135, subdivision 5; 62A.50, subdivision 3; 62A.61; 62A.65, subdivision 5; 62B.04, subdivision 2; 62D.12, subdivision 2; 62E.02, subdivision 1; 62E.05, subdivision 1; 62E.09; 62E.13, subdivisions 6 and 8; 62E.14, subdivision 2; 62E.15, subdivision 2; 62I.07, subdivision 1; 62L.02, subdivision 24; 62L.03, subdivision 5; 62L.05, subdivision 5; 62L.14, subdivision 7; 62Q.105, subdivision 1; 62Q.185; 62Q.30; 62S.01, subdivision 14; 62S.05, subdivision 2; 65A.01, subdivisions 1, 3, and by adding a subdivision; 65A.27, subdivision 4; 65A.29, subdivision 4; 65B.02, subdivision 2; 65B.44, subdivision 1; 65B.48, subdivision 5; 72A.125, subdivision 3; 72A.20, subdivision 29; 72B.04, subdivision 10; 79A.01, subdivision 10, and by adding a subdivision; 79A.02, subdivisions 1, 3, and 4; 79A.03, subdivisions 6, 7, 9, 10, and by adding a subdivision; 79A.06, subdivision 5, and by adding a subdivision; 79A.21, subdivision 2; 79A.23, subdivisions 1 and 2; and 256B.0644; proposing coding for new law in Minnesota Statutes, chapter 60B; repealing Minnesota Statutes 1998,

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sections 60A.11, subdivision 24a; 60B.36; 60B.44, subdivisions 3 and 5; 60K.08; 65A.29, subdivision 12; 62Q.30; and 79A.04, subdivision 8; Minnesota Rules, part 2780.0500, item C.

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

Section 1. Minnesota Statutes 1998, section 60A.02, subdivision 1a, is amended to read:

Subd. 1a. **ASSOCIATION OR ASSOCIATIONS.** (a) "Association" or "associations" means an organized body of people who have some interest in common and that has at the onset a minimum of 100 persons; is organized and maintained in good faith for purposes other than that of obtaining insurance; and has a constitution and bylaws which provide that: (1) the association or associations hold regular meetings not less frequently than annually to further purposes of the members; (2) except for credit unions, the association or associations collect dues or solicit contributions from members; (3) the members have voting privileges and representation on the governing board and committees, which provide the members with control of the association including the purchase and administration of insurance products offered to members; and (4) the members are not, within the first 30 days of membership, directly solicited, offered, or sold an insurance policy if the policy is available as an association benefit.

(b) An association may apply to the commissioner for a waiver of the 30-day waiting period to that association. The commissioner may grant the waiver upon a finding of ~~all~~ at least three of the following: (1) the association is in full compliance with this subdivision; (2) sanctions have not been imposed against the association as a result of significant disciplinary action by the commissioner; ~~and~~ (3) at least 80 percent of the association's income comes from dues, contributions, or sources other than income from the sale of insurance; or (4) the association has been organized and maintained for at least ten years.

Sec. 2. Minnesota Statutes 1998, section 60A.02, is amended by adding a subdivision to read:

Subd. 2b. **FILED.** In cases where a law requires documents to be filed with the commissioner, the documents will be considered filed when they are received by the department of commerce.

Sec. 3. Minnesota Statutes 1998, section 60A.052, subdivision 2, is amended to read:

Subd. 2. **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) cancellation of all or some of the company's insurance contracts then in force in this state; or (4) 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. 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

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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. 4. Minnesota Statutes 1998, section 60A.052, is amended by adding a subdivision to read:

Subd. 4a. **WITHDRAWAL OF INSURER FROM STATE.** No insurer shall withdraw from this state until its direct liability to its policyholders and obligees under all its insurance contracts then in force in this state have been assumed by another licensed insurer according to section 60A.09, subdivision 4a.

Sec. 5. Minnesota Statutes 1998, section 60A.06, subdivision 1, is amended to read:

Subdivision 1. **STATUTORY LINES.** Insurance corporations may be authorized to transact in any state or territory in the United States, in the Dominion of Canada, and in foreign countries, when specified in their charters or certificates of incorporation, either as originally granted or as thereafter amended, any of the following kinds of business, upon the stock plan, or upon the mutual plan when the formation of such mutual companies is otherwise authorized by law; and business trusts as authorized by law of this state shall only be authorized to transact in this state the following kind of business hereinafter specified in clause (7) hereof when specified in their "declaration of trust":

(1) To insure against loss or damage to property on land and against loss of rents and rental values, leaseholds of buildings, use and occupancy and direct or consequential loss or damage caused by fire, smoke or smudge, water or other fluid or substance, lightning, windstorm, tornado, cyclone, earthquake, collapse and slippage, rain, hail, frost, snow, freeze, change of temperature, weather or climatic conditions, excess or deficiency of moisture, floods, the rising of waters, oceans, lakes, rivers or their tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, electrical power interruption or electrical breakdown from any cause, railroad equipment, motor vehicles or aircraft, accidental injury to sprinklers, pumps, conduits or containers or other apparatus erected for extinguishing fires, explosion, whether fire ensues or not, except explosions on risks specified in clause (3); provided, however, that there may be insured hereunder the following: (a) explosion of any kind originating outside the insured building or outside of the building containing the property insured, (b) explosion of pressure vessels which do not contain steam or which are not operated with steam coils or steam jackets; and (c) risks under home owners multiple peril policies;

(2)(a) To insure vessels, freight, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank notes, bills of exchange, and other evidences of debt, bottomry and respondentia interest, and every insurance appertaining to or connected with risks of transportation and navigation on and under water, on land or in the air;

(b) To insure all personal property floater risks;

(3) To insure against any loss from either direct or indirect damage to any property or interest of the assured or of another, resulting from the explosion of or injury to (a) any boiler, heater or other fired pressure vessel; (b) any unfired pressure vessel; (c) pipes or containers connected with any of said boilers or vessels; (d) any engine, turbine, com-

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pressor, pump or wheel; (e) any apparatus generating, transmitting or using electricity; (f) any other machinery or apparatus connected with or operated by any of the previously named boilers, vessels or machines; and including the incidental power to make inspections of and to issue certificates of inspection upon, any such boilers, apparatus, and machinery, whether insured or otherwise;

(4) To make contracts of life and endowment insurance, to grant, purchase, or dispose of annuities or endowments of any kind; and, in such contracts, or in contracts supplemental thereto to provide for additional benefits in event of death of the insured by accidental means, total permanent disability of the insured, or specific dismemberment or disablement suffered by the insured, or acceleration of life or endowment or annuity benefits in advance of the time they would otherwise be payable;

(5)(a) To insure against loss or damage by the sickness, bodily injury or death by accident of the assured or dependents, or those for whom the assured has assumed a portion of the liability for the loss or damage, including liability for payment of medical care costs or for provision of medical care;

(b) To insure against the legal liability, whether imposed by common law or by statute or assumed by contract, of employers for the death or disablement of, or injury to, employees;

(6) To guarantee the fidelity of persons in fiduciary positions, public or private, or to act as surety on official and other bonds, and for the performance of official or other obligations;

(7) To insure owners and others interested in real estate against loss or damage, by reason of defective titles, encumbrances, or otherwise;

(8) To insure against loss or damage by breakage of glass, located or in transit;

(9)(a) To insure against loss by burglary, theft, or forgery;

(b) To insure against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptance or any other valuable paper or document, resulting from any cause, except while in the custody or possession of and being transported by any carrier for hire or in the mail;

(c) To insure individuals by means of an all risk type of policy commonly known as the "personal property floater" against any kind and all kinds of loss of or damage to, or loss of use of, any personal property other than merchandise;

(d) To insure against loss or damage by water or other fluid or substance;

(10) To insure against loss from death of domestic animals and to furnish veterinary service;

(11) To guarantee merchants and those engaged in business, and giving credit, from loss by reason of giving credit to those dealing with them; this shall be known as credit insurance;

(12) To insure against loss or damage to automobiles or other vehicles or aircraft and their contents, by collision, fire, burglary, or theft, and other perils of operation, and against liability for damage to persons, or property of others, by collision with such ve-

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hicles or aircraft, and to insure against any loss or hazard incident to the ownership, operation, or use of motor or other vehicles or aircraft;

(13) To insure against liability for loss or damage to the property or person of another caused by the insured or by those for whom the insured is responsible, including insurance of medical, hospital, surgical, funeral or other related expense of the insured or other person injured, irrespective of legal liability of the insured, when issued with or supplemental to policies of liability insurance;

(14) To insure against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators, except loss or damage by fire;

(15) To insure against attorneys fees, court costs, witness fees and incidental expenses incurred in connection with the use of the professional services of attorneys at law.

Sec. 6. Minnesota Statutes 1998, section 60A.06, subdivision 2, is amended to read:

Subd. 2. **OTHER LINES.** Any insurance corporation or association heretofore or hereafter licensed to transact within the state any of the kinds or classes of insurance specifically authorized under the laws of this state may, when authorized by its charter, transact within and without the state any lines of insurance germane to its charter powers and not specifically provided for under the laws of this state when these lines, or combinations of lines, of insurance are not in violation of the constitution or the laws of the state and, in the opinion of the commissioner, not contrary to public policy, provided the company or association shall first obtain authority of the commissioner and meet ~~such requirements as to~~ capital or surplus~~, or both,~~ and other solvency and policy form requirements as the commissioner shall prescribe. These additional hazards may be insured against by attachment to, or in extension of, any policy which the company may be authorized to issue under the laws of this state. This subdivision shall apply to companies operating upon the stock or mutual plan, reciprocal or interinsurance exchanges.

Sec. 7. Minnesota Statutes 1998, section 60A.075, is amended by adding a subdivision to read:

Subd. 18. **POST CONVERSION ACQUISITION.** Prior to and for a period of five years following the date when the distribution of consideration to the eligible members in exchange for their membership interests is completed under a plan of conversion according to this section, no person other than the reorganized company shall directly or indirectly acquire or offer to acquire in any manner ownership or beneficial ownership of ten percent or more of any class of voting security of the reorganized company, or of any affiliate of the reorganized company which controls, directly or indirectly, a majority of the voting power of the reorganized company, without the prior approval of the commissioner. For the purposes of this subdivision, the terms "affiliate" and "person" have the meanings given in section 60D.15, and the term "reorganized company" includes any successor of the reorganized company.

Sec. 8. Minnesota Statutes 1998, section 60A.092, subdivision 6, is amended to read:

Subd. 6. **SINGLE ASSUMING INSURER; TRUST FUND REQUIREMENTS.** In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, ~~the assuming insurer shall maintain~~ a trusteed surplus of not less

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than $20,000,000 or an additional amount as the commissioner considers necessary. The assuming insurer shall maintain a its surplus as regards policyholders in an amount not less than $50,000,000 for long–tail casualty reinsurers as provided under subdivision 3, paragraph (a), clause (5).

Sec. 9. Minnesota Statutes 1998, section 60A.092, subdivision 11, is amended to read:

Subd. 11. **REINSURANCE AGREEMENT REQUIREMENTS.** (a) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit authorized under subdivisions 4 and 5 shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, comply with all requirements necessary to give the court jurisdiction, and abide by the final decision of the court or of any appellate court in the event of an appeal; and

(2) to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

(b) Paragraph (a) is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if an obligation to do so is created in the agreement.

(c) Credit will not be granted, nor an asset or a reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of subdivision 2, 3, 4, 5, 6, or 7, unless the reinsurance contract provides that in the event of the insolvency of the ceding insurer, the reinsurance will be payable under the contract without diminution because of that insolvency.

Payments by the reinsurer must be made directly to the ceding insurer or its receiver, except where the contract of insurance or reinsurance specifically provides for another payee for the reinsurance in the event of insolvency of the ceding insurer according to the applicable requirements of statutes, rules, or orders of the domiciliary state of the ceding insurer.

Sec. 10. Minnesota Statutes 1998, section 60A.10, subdivision 1, is amended to read:

Subdivision 1. **DOMESTIC COMPANIES.** (1) **DEPOSIT AS SECURITY FOR ALL POLICYHOLDERS REQUIRED.** No company in this state, other than farmers' mutual, or real estate title insurance companies, shall do business in this state unless it has on deposit with the commissioner, for the protection of both its resident and nonresident policyholders, securities to an amount, the actual market value of which, exclusive of interest, shall never be less than $200,000 ~~until July 1, 1986, $300,000 until July 1, 1987, $400,000 until July 1, 1988, and~~ $500,000 ~~on and after July 1, 1988~~ or one–half the applicable financial requirement set forth in section 60A.07, whichever is less. The securities shall be retained under the control of the commissioner as long as any policies of the depositing company remain in force.

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(2) **SECURITIES DEFINED.** For the purpose of this subdivision, the word "securities" means bonds or other obligations of, or bonds or other obligations insured or guaranteed by, the United States, any state of the United States, any municipality of this state, or any agency or instrumentality of the foregoing.

(3) **PROTECTION OF DEPOSIT FROM LEVY.** No judgment creditor or other claimant may levy upon any securities held on deposit with, or for the account of, the commissioner. Upon the entry of an order by a court of competent jurisdiction for the rehabilitation, liquidation or conservation of any depositing company as provided in chapter 60B, that company's deposit together with any accrued income thereon shall be transferred to the commissioner as rehabilitator, liquidator, or conservator.

Sec. 11. Minnesota Statutes 1998, section 60A.111, subdivision 1, is amended to read:

Subdivision 1. **REPORT.** Annually, or more frequently if determined by the commissioner to be necessary for the protection of policyholders, each foreign~~, alien~~ and domestic insurance company other than a life insurance company shall report to the commissioner the ratio of its qualified assets to its required liabilities.

Sec. 12. Minnesota Statutes 1998, section 60A.13, subdivision 1, is amended to read:

Subdivision 1. **ANNUAL STATEMENTS REQUIRED.** Every insurance company, including fraternal benefit societies, and reciprocal exchanges, doing business in this state, shall ~~transmit to~~ file with the commissioner, annually, on or before March 1, the appropriate verified National Association of Insurance Commissioners' annual statement blank, prepared in accordance with the association's instructions handbook and following those accounting procedures and practices prescribed by the association's accounting practices and procedures manual, unless the commissioner requires or finds another method of valuation reasonable under the circumstances. Another method of valuation permitted by the commissioner must be at least as conservative as those prescribed in the association's manual. All companies required to file an annual statement under this subdivision ~~must~~ may also be required to file with the commissioner and the National Association of Insurance Commissioners a copy of their annual statement ~~on computer diskette~~ in an electronic form prescribed by the commissioner. All Minnesota domestic insurers required to file annual statements under this subdivision must also file quarterly statements with the commissioner for the first, second, and third calendar quarter on or before 45 days after the end of the applicable quarter, prepared in accordance with the association's instruction handbook. All companies required to file quarterly statements under this subdivision ~~must also file a copy of their quarterly statement on computer diskette~~ may also be required to file the quarterly statements with the commissioner and the National Association of Insurance Commissioners in an electronic form prescribed by the commissioner. In addition, the commissioner may require the filing of any other information determined to be reasonably necessary for the continual enforcement of these laws. The statement may be limited to the insurer's business and condition in the United States unless the commissioner finds that the business conducted outside the United States may detrimentally affect the interests of policyholders in this state. The statements shall also contain a verified schedule showing all details required by law for assessment and taxation. The statement or schedules shall be in the form and shall contain all matters

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the commissioner may prescribe, and it may be varied as to different types of insurers so as to elicit a true exhibit of the condition of each insurer.

Sec. 13. Minnesota Statutes 1998, section 60A.16, subdivision 2, is amended to read:

Subd. 2. **PROCEDURE TO BE FOLLOWED.** (1) ~~AGREEMENT~~ **PLAN OF MERGER.** The merger or consolidation of insurance corporations can be effected only as a result of a ~~joint agreement entered into~~ plan of merger adopted, approved, and filed as follows:

(a) ~~The board of directors of each of such insurance corporations as desire to merge or consolidate may, by majority vote, enter into a joint agreement signed by such directors and prescribing~~ A resolution containing the plan of merger shall be approved by the affirmative vote of a majority of the directors of the board of each constituent corporation. The plan of merger shall prescribe the terms and conditions of merger or consolidation, and the mode of carrying the same into effect, with such other details and provisions as are deemed necessary. In the case of merging or consolidating stock insurance corporations or stock and mutual insurance corporations, such ~~joint agreement~~ plan of merger may prescribe that stock of one or more of such corporations shall be converted, in whole or in part, into stock or other securities of a corporation which is not a merging or consolidating corporation or into cash.

(b) The ~~agreement~~ plan of merger, or a summary of the plan approved by the commissioner, shall be submitted to the respective shareholders or members, as the case may be, of each ~~of the merging or consolidating insurance corporations~~ constituent corporation, for consideration at a regular meeting or at a special meeting duly called for the purpose of considering and acting upon the ~~agreement, and if~~ plan. Written notice of the meeting, which shall state that the purpose of the meeting is to consider the proposed plan of merger, shall be given to each shareholder or member entitled to vote upon the plan of merger not less than 30 nor more than 60 days before the meeting. The plan of merger must be approved by the affirmative vote of the holders of two-thirds of the voting power of the shareholders or members present or represented at the meeting of each ~~such insurance~~ constituent corporation ~~shall vote for the adoption of the agreement, then that fact shall be certified on the agreement by the secretary of each insurance corporation, and the agreement so adopted and certified shall be signed and acknowledged by the president and secretary of each of said insurance corporations~~; provided, however, that in the case of a merger, except one ~~whereby~~ in which any shares of the surviving insurance corporation are to be converted into shares or other securities of another corporation or into cash, the agreement need not be submitted to the shareholders or members of that one of the insurance corporations into which it has been agreed the others shall be merged~~, but the agreement may be signed and acknowledged by the president and secretary of such insurance corporation at the direction of the board of directors~~. Upon receiving the approval of the shareholders or members of each constituent corporation, articles of merger shall be prepared that contain the plan of merger and a statement that the plan has been approved by each corporation under this section.

(c) The ~~agreement so adopted, certified and acknowledged~~ articles of merger shall be delivered to the commissioner of commerce, who, if the ~~agreement~~ plan of merger is reasonable and if the provisions thereof providing for any transfer of assets and assumption of liabilities are fair and equitable to the claimants and policyholders, shall place a

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certificate of approval on the ~~agreement~~ articles of merger and shall file the ~~agreement~~ articles in the commissioner's office, and ~~a copy~~ copies of the ~~agreement~~ articles, certified by the commissioner of commerce, shall be filed for record in the office of the secretary of state and ~~in the offices of the county recorders of the counties in this state in which any of the corporate parties to the agreement have their home or principal offices, and of any counties in which any of the corporate parties have land, title to which will be transferred as a result of the merger or consolidation~~ delivered to the surviving corporation or its legal representative.

(2) **ARTICLES OF INCORPORATION OF NEW COMPANY.** (a) If the ~~joint agreement~~ plan of merger is for a consolidation into a new insurance corporation to be formed under any law or laws of this state, articles of incorporation for such new insurance corporation shall be prepared and delivered to the commissioner of commerce together with the ~~agreement~~ articles of merger as provided in clause (1) hereof.

(b) Such articles shall be prepared, executed, approved, filed and recorded in the form and manner prescribed in, or applicable to, the particular law or laws under which the new insurance corporation is to be formed.

(3) **ABANDONMENT.** A proposed merger or consolidation may be abandoned at any time prior to approval by the commissioner under the provision for abandonment, if any, set forth in the plan of merger.

(4) **MUTUAL INSURANCE HOLDING COMPANIES.** In the case of a merger of two mutual insurance holding companies under section 60A.077, subdivision 2, paragraph (c), the procedures set forth in subdivisions 1, 2, 3, 4, and 6 of this section shall apply, subject to the following:

(a) the plan of merger must be fair and reasonable to the members of each constituent corporation;

(b) no member of either constituent corporation on the effective date of the merger shall lose membership solely on account of the merger;

(c) membership and voting rights in each respective constituent corporation for purposes of the meeting of the members held to consider the plan of merger shall be determined in accordance with the articles and bylaws of that constituent corporation as of a record date established in the plan of merger; and

(d) the commissioner may require changes to the plan or require certain undertakings from the surviving corporation to assure compliance with this clause.

Sec. 14. Minnesota Statutes 1998, section 60A.16, subdivision 3, is amended to read:

Subd. 3. **CONSUMMATION OF MERGER.** (1) A merger of one or more insurance corporations into a domestic insurance corporation shall be effective when the ~~joint agreement has~~ articles of merger have been approved and filed in the office of the commissioner of commerce, or at a later date specified in the articles of merger.

(2) A consolidation of insurance corporations into a new domestic insurance corporation shall be effective when the ~~joint agreement~~ articles of merger and the new articles of incorporation have been approved and filed in the office of the commissioner of commerce, or at a later date as specified in the plan of merger.

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(3) A merger or consolidation of one or more domestic insurance corporations into a foreign insurance corporation shall be effective according to the provisions of law of the jurisdiction in which ~~such~~ the foreign insurance corporation was formed, but not until the ~~joint agreement has been adopted, certified and acknowledged, and copies thereof approved and~~ articles of merger have been filed in accordance with subdivision 2, clause (1).

Sec. 15. Minnesota Statutes 1998, section 60A.16, subdivision 4, is amended to read:

Subd. 4. **EFFECT OF MERGER OR CONSOLIDATION.** Upon the consummation of the merger or consolidation as provided in subdivision 3, the effect of ~~such~~ the merger or consolidation shall be:

(1) That the several corporate parties to the ~~joint agreement~~ plan of merger shall be one insurance corporation, which shall be

(a) in the case of a merger, that one of the constituent insurance corporations into which it has been agreed the others shall be merged and which shall survive the merger for that purpose, or

(b) in the case of a consolidation, the new insurance corporation into which it has been agreed the others shall be consolidated;

(2) The separate existence of the constituent insurance corporations shall cease, except that of the surviving insurance corporation in the case of a merger;

(3) The surviving or new insurance corporation, as the case may be, shall possess all the rights, privileges and franchises possessed by each of the former insurance corporations so merged or consolidated except that such surviving or new corporation shall not thereby acquire authority to engage in any insurance business or exercise any right which an insurance corporation may not be formed under the laws of this state to engage in or exercise;

(4) All the property, real, personal and mixed, of each of the constituent insurance corporations, and all debts due on whatever account to any of them, including without limitation subscriptions for shares, premiums on existing policies, and other choses in action belonging to any of them, shall be taken and be deemed to be transferred to and invested in such surviving or new insurance corporation, as the case may be, without further act or deed;

(5) The surviving or new insurance corporation shall be responsible for all the liabilities and obligations of each of the insurance corporations merged or consolidated, in accordance with the terms of the agreement for merger or consolidation; but the rights of the creditors of the constituent insurance corporations, or of any persons dealing with such insurance corporations shall not be impaired by such merger or consolidation, and any claim existing or action or proceeding pending by or against any of the constituent insurance corporations may be prosecuted to judgment as if the merger or consolidation had not taken place, or the surviving or new insurance corporation may be proceeded against or substituted in its place.

Sec. 16. Minnesota Statutes 1998, section 60A.19, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS.** Any insurance company of another state, upon compliance with all laws governing such corporations in general and with the foregoing

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provisions so far as applicable and the following requirements, shall be admitted to do business in this state:

(1) It shall deposit with the commissioner a certified copy of its charter or certificate of incorporation and its bylaws, and a statement showing its financial condition and business, verified by its president and secretary or other proper officers;

(2) It shall furnish the commissioner satisfactory evidence of its legal organization and authority to transact the proposed business and that its capital, assets, deposits with the proper official of its own state, amount insured, number of risks, reserve and other securities, and guaranties for protection of policyholders, creditors, and the public, comply with those required of like domestic companies;

(3) By a duly executed instrument filed in the office of the commissioner, it shall appoint the commissioner and successors in office its lawful attorneys in fact and therein irrevocably agree that legal process in any action or proceeding against it may be served upon them with the same force and effect as if personally served upon it, so long as any of its liability exists in this state;

(4) It shall appoint, as its agents in this state, residents thereof, and obtain from the commissioner a license to transact business;

(5) Regardless of what lines of business an insurer of another state is seeking to write in this state, the lines of business it is licensed to write in its state of incorporation shall be the basis for establishing the financial requirements it must meet for admission in this state or for continuance of its authority to write business in this state;

(6) No insurer of another state shall be admitted to do business in this state for a line of business that it is not authorized to write in its state of incorporation, unless the statutes of that state prohibit all insurers from writing that line of business.

Sec. 17. Minnesota Statutes 1998, section 60A.32, is amended to read:

60A.32 **RATE FILING FOR CROP HAIL INSURANCE.**

An insurer issuing policies of insurance against crop damage by hail in this state shall file its insurance rates with the commissioner. The insurance rates must be filed before ~~March 1~~ February 1 of the year in which a policy is issued.

Sec. 18. Minnesota Statutes 1998, section 60B.21, subdivision 2, is amended to read:

Subd. 2. **FIXING OF RIGHTS.** Upon issuance of the order, the rights and liabilities of any such insurer and of its creditors, policyholders, shareholders, members, and all other persons interested in its estate are fixed as of the date of filing of the petition for liquidation, except as provided in sections 60B.22, 60B.25, clause (22), and 60B.39.

Sec. 19. Minnesota Statutes 1998, section 60B.25, is amended to read:

60B.25 **POWERS OF LIQUIDATOR.**

The liquidator shall report to the court monthly, or at other intervals specified by the court, on the progress of the liquidation in whatever detail the court orders. The liquidator shall coordinate activities with those of each guaranty association having an interest in the liquidation and shall submit a report detailing how coordination will be achieved to

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the court for its approval within 30 days following appointment, or within the time which the court, in its discretion, may establish. Subject to the court's control, the liquidator may:

(1) Appoint a special deputy to act under sections 60B.01 to 60B.61 and determine the deputy's compensation. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

(2) Appoint or engage employees and agents, actuaries, accountants, appraisers, consultants, and other personnel deemed necessary to assist in the liquidation without regard to chapter 14.

(3) Fix the compensation of persons under clause (2), subject to the control of the court.

(4) Defray all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the liquidator may advance the costs so incurred out of the appropriation made to the department of commerce. Any amounts so paid shall be deemed expense of administration and shall be repaid for the credit of the department of commerce out of the first available money of the insurer.

(5) Hold hearings, subpoena witnesses and compel their attendance, administer oaths, examine any person under oath and compel any person to subscribe to testimony after it has been correctly reduced to writing, and in connection therewith require the production of any books, papers, records, or other documents which the liquidator deems relevant to the inquiry.

(6) Collect all debts and money due and claims belonging to the insurer, wherever located, and for this purpose institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts; do such other acts as are necessary or expedient to collect, conserve, or protect its assets or property, including sell, compound, compromise, or assign for purposes of collection, upon such terms and conditions as the liquidator deems best, any bad or doubtful debts; and pursue any creditor's remedies available to enforce claims.

(7) Conduct public and private sales of the property of the insurer in a manner prescribed by the court.

(8) Use assets of the estate to transfer coverage obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 60B.44.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable, except that no transaction involving property the market value of which exceeds $10,000 shall be concluded without express permission of the court. The liquidator may also execute, acknowledge, and deliver any deeds, assignments, releases, and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation. In cases where real property sold by the liquidator is located other than in the county where the liquidation is pending, the liquidator shall cause to be filed with the county recorder for the county in which the property is located a certified copy of the order of appointment.

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(10) Borrow money on the security of the insurer's assets or without security and execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation.

(11) Enter into such contracts as are necessary to carry out the order to liquidate, and affirm or disavow any contracts to which the insurer is a party.

(12) Continue to prosecute and institute in the name of the insurer or in the liquidator's own name any suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under section 60B.23, the liquidator may apply to any court in this state or elsewhere for leave to be substituted for the insurer as plaintiff.

(13) Prosecute any action which may exist in behalf of the creditors, members, policyholders, or shareholders of the insurer against any officer of the insurer, or any other person.

(14) Remove any records and property of the insurer to the offices of the commissioner or to such other place as is convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one or more banks in this state such sums as are required for meeting current administration expenses and dividend distributions.

(16) Deposit with the state board of investment for investment pursuant to section 11A.24, all sums not currently needed, unless the court orders otherwise.

(17) File any necessary documents for record in the office of any county recorder or record office in this state or elsewhere where property of the insurer is located.

(18) Assert all defenses available to the insurer as against third persons, including statutes of limitations, statutes of frauds, and the defense of usury. A waiver of any defense by the insurer after a petition for liquidation has been filed shall not bind the liquidator.

(19) Exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder, or member, including any power to avoid any transfer or lien that may be given by law and that is not included within sections 60B.30 and 60B.32.

(20) Intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation, or dissolution of an insurer doing business in both states.

(22) Collect from an insured any unpaid earned premium or retrospectively rated premium due the insurer based on the termination of coverage under section 60B.22. Premium on surety business is considered earned at inception if no policy term can be determined. All other premium will be considered earned and will be prorated over the determined policy term, regardless of any provision in the bond, guaranty, contract, or other agreement.

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

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~~(22)~~ (23) Exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with sections 60B.01 to 60B.61.

~~(23)~~ (24) The enumeration in this section of the powers and authority of the liquidator is not a limitation, nor does it exclude the right to do such other acts not herein specifically enumerated or otherwise provided for as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation.

~~(24)~~ (25) The power of the liquidator of a health maintenance organization includes the power to transfer coverage obligations to a solvent and voluntary health maintenance organization, insurer, or nonprofit health service plan, and to assign provider contracts of the insolvent health maintenance organization to an assuming health maintenance organization, insurer, or nonprofit health service plan permitted to enter into such agreements. The liquidator is not required to meet the notice requirements of section 62D.121. Transferees of coverage obligations or provider contracts shall have no liability to creditors or obligees of the health maintenance organization except those liabilities expressly assumed.

Sec. 20. Minnesota Statutes 1998, section 60B.26, subdivision 1, is amended to read:

Subdivision 1. **NOTICE REQUIRED.** (a) The liquidator shall give notice of the liquidation order as soon as possible by first class mail and either by telegram or telephone to the commissioner of commerce of each jurisdiction in which the insurer is licensed to do business, by first class mail and by telephone to the department of labor and industry of this state if the insurer is or has been an insurer of workers' compensation, by first class mail within this state and by airmail outside this state to all agents of the insurer having a duty under ~~section 60B.27~~ this chapter, by first class mail, if the insurer is a surety company to every district court judge exercising probate jurisdiction and the court administrator of all courts of record in this state and upon receipt of such notice it shall be the duty of those judges and court administrators to notify and require every executor, administrator, guardian, trustee, or other fiduciary having filed a bond on which such company is surety, to forthwith file a new bond with new sureties, and by first class mail within this state and by airmail outside this state at the last known address to all persons known or reasonably expected to have claims against the insurer, including all policyholders. The liquidator also shall publish a notice three consecutive times in a newspaper of general circulation in the county in which the liquidation is pending or in Ramsey county, the last publication to be not less than three months before the earliest deadline specified in the notice under subdivision 2.

(b) Notice to agents shall inform them of their duties under ~~section 60B.27~~ this chapter and inform them what information they must communicate to policyholders. Notice to policyholders shall include notice of impairment and termination of coverage under section 60B.22. When it is applicable, notice to policyholders shall include (1) notice of withdrawal of the insurer from the defense of any case in which the policyholder is interested, and (2) notice of the right to file a claim under section 60B.40, subdivision 2, ~~and (3) information about the existence of section 79.28, relating to certain unpaid workers' compensation awards~~.

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(c) Within 15 days of the date of entry of the order, the liquidator shall report to the court what notice has been given. The court may order such additional notice as it deems appropriate.

Sec. 21. **[60B.365] REINSURER'S LIABILITY.**

Subdivision 1. **GENERALLY.** The amount recoverable by the liquidator from reinsurers must not be reduced as a result of the delinquency proceedings, regardless of any provision in the reinsurance contract or other agreement, except as provided in subdivision 2.

Subd. 2. **PAYMENTS.** Payments by the reinsurer must be made directly to the ceding insurer or its receiver, except where the contract of insurance or reinsurance specifically provides for another payee for the reinsurance in the event of insolvency of the ceding insurer according to the applicable requirements of statutes, rules, or orders of the domiciliary state of the ceding insurer. The receiver and reinsurer are entitled to recover from a person who unsuccessfully makes a claim directly against the reinsurer the receiver's attorneys' fees and expenses incurred in preventing any collection by the person.

Sec. 22. Minnesota Statutes 1998, section 60B.39, subdivision 2, is amended to read:

Subd. 2. **CLAIMS UNDER TERMINATED POLICIES.** Any claim that would have become absolute if there had been no termination of coverage under section 60B.22, and which was not covered by insurance acquired to replace the terminated coverage, shall be allowed as if the coverage had remained in effect, unless at least ten days before the insured event occurred either the claimant had actual notice of the termination or notice was mailed to the claimant as prescribed by section 60B.26, subdivision 1, or ~~60B.27, subdivision 1~~ this chapter. If allowed the claim shall share in distributions under section 60B.44, subdivision 9.

Sec. 23. Minnesota Statutes 1998, section 60B.44, subdivision 4, is amended to read:

Subd. 4. **LOSS CLAIMS; INCLUDING CLAIMS NOT COVERED BY A GUARANTY ASSOCIATION.** All claims under policies or contracts of coverage for losses incurred including third party claims, and all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies or contracts. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment made by an employer to an employee shall be treated as a gratuity. Claims not covered by a guaranty association are loss claims. ~~If any portion of a claim is covered by a reinsurance treaty or similar contractual obligation, that claim shall be entitled to a pro rata share, based upon the relationship the claim amount bears to all claims payable under the treaty or contract, of the proceeds received under that treaty or contractual obligation.~~

~~Claims receiving pro rata payments shall not, as to any remaining unpaid portion of their claim, be treated in a different manner than if no such payment had been received.~~

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Sec. 24. Minnesota Statutes 1998, section 60B.44, is amended by adding a subdivision to read:

Subd. 4a. **UNEARNED PREMIUMS.** Claims under nonassessable policies or contracts of coverage for unearned premiums or subscription rates or other refunds.

Sec. 25. Minnesota Statutes 1998, section 60B.44, is amended by adding a subdivision to read:

Subd. 4b. **FEDERAL GOVERNMENT.** Claims of the federal government.

Sec. 26. Minnesota Statutes 1998, section 60B.44, is amended by adding a subdivision to read:

Subd. 4c. **WAGES.** (a) Debts due to employees for services performed, not to exceed $1,000 to each employee, that have been earned within one year before the filing of the petition for liquidation, subject to payment of applicable federal, state, or local government taxes required by law to be withheld from the debts. Officers are not entitled to the benefit of this priority. In cases where there are no claims and no potential claims of the federal government in the estate, these claims will have priority over claims in subdivision 4.

(b) The priority in paragraph (a) is in lieu of other similar priority authorized by law as to wages or compensation of employees.

Sec. 27. Minnesota Statutes 1998, section 60B.44, subdivision 6, is amended to read:

Subd. 6. **RESIDUAL CLASSIFICATION.** All other claims including claims of ~~the federal or~~ any state or local government, not falling within other classes under this section. Claims, including those of any governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under subdivision 9.

Sec. 28. Minnesota Statutes 1998, section 60D.20, subdivision 2, is amended to read:

Subd. 2. **DIVIDENDS AND OTHER DISTRIBUTIONS.** (a) Subject to the limitations and requirements of this subdivision, the board of directors of any domestic insurer within an insurance holding company system may authorize and cause the insurer to declare and pay any dividend or distribution to its shareholders as the directors deem prudent from the earned surplus of the insurer. An insurer's earned surplus, also known as unassigned funds, shall be determined in accordance with the accounting procedures and practices governing preparation of its annual statement, ~~minus 25 percent of earned surplus attributable to net unrealized capital gains~~. Dividends which are paid from sources other than an insurer's earned surplus as of the end of the immediately preceding quarter for which the insurer has filed a quarterly or annual statement as appropriate, or are extraordinary dividends or distributions may be paid only as provided in paragraphs (d), (e), and (f).

(b) The insurer shall notify the commissioner within five business days following declaration of a dividend declared pursuant to paragraph (a) and at least ten days prior to

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its payment. The commissioner shall promptly consider the notification filed pursuant to this paragraph, taking into consideration the factors described in subdivision 4.

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

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

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

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

Sec. 29. Minnesota Statutes 1998, section 60K.02, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** No person shall act or assume to act as an insurance agent in the solicitation or procurement of applications for insurance, nor in the sale of insurance or policies of insurance, nor in any manner aid as an insurance agent in the negotiation of insurance by or with an insurer, including resident agents or reciprocal or interinsurance exchanges and fraternal benefit societies, until that person obtains from the commissioner a license for that purpose. The license must specifically set forth the name of the person authorized to act as an agent and the class or classes of insurance for which that person is authorized to solicit or countersign policies. An insurance agent may qualify for a license ~~in the following classes~~ to sell: (1) life and health; ~~and~~ (2) life and health and variable contracts; (3) property and casualty; (4) travel baggage; (5) bail bonds; (6) title insurance; and (7) farm property and liability.

No insurer shall appoint or reappoint a natural person, partnership, or corporation to act as an insurance agent on its behalf until that natural person, partnership, or corporation obtains a license as an insurance agent.

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Sec. 30. Minnesota Statutes 1998, section 60K.03, subdivision 2, is amended to read:

Subd. 2. **RESIDENT AGENT.** The commissioner shall issue a resident insurance agent's license to a qualified resident of this state as follows:

(a) A person may qualify as a resident of this state if that person resides in this state or the principal place of business of that person is maintained in this state. Application for a license claiming residency in this state for licensing purposes constitutes an election of residency in this state. A license issued upon an application claiming residency in this state is void if the licensee, while holding a resident license in this state, also holds, or makes application for, a resident license in, or thereafter claims to be a resident of, any other state or jurisdiction or if the licensee ceases to be a resident of this state; provided, however, if the applicant is a resident of a community or trade area, the border of which is contiguous with the state line of this state, the applicant may qualify for a resident license in this state and at the same time hold a resident license from the contiguous state.

(b) The commissioner shall subject each applicant who is a natural person to a written examination as to the applicant's competence to act as an insurance agent. The examination must be held at a reasonable time and place designated by the commissioner.

(c) The examination shall be approved for use by the commissioner and shall test the applicant's knowledge of the lines of insurance, policies, and transactions to be handled under the class of license applied for, of the duties and responsibilities of the licensee, and pertinent insurance laws of this state.

(d) The examination shall be given only after the applicant has completed a program of classroom studies in a school, which shall not include a school sponsored by, offered by, or affiliated with an insurance company or its agents; except that this limitation does not preclude a bona fide professional association of agents, not acting on behalf of an insurer, from offering courses. The course of study shall consist of 30 hours of classroom study devoted to the basic fundamentals of insurance for those seeking a Minnesota license for the first time, 15 hours devoted to specific life and health topics for those seeking a life and health license, and 15 hours devoted to specific property and casualty topics for those seeking a property and casualty license. Of the 30 hours of required classroom study, at least three hours must be devoted to state insurance laws, regulations, and rules. The program of studies or study course shall have been approved by the commissioner in order to qualify under this paragraph. If the applicant has been previously licensed for the particular line of insurance in the state of Minnesota, the requirement of a program of studies or a study course shall be waived. A certification of compliance by the organization offering the course shall accompany the applicant's license application. This program of studies in a school or a study course shall not apply to farm property perils and farm liability applicants, or to agents writing such other lines of insurance as the commissioner may exempt from examination by order.

(e) The applicant must pass the examination with a grade determined by the commissioner to indicate satisfactory knowledge and understanding of the class or classes of insurance for which the applicant seeks qualification. The commissioner shall inform the applicant as to whether or not the applicant has passed. Examination results are valid for a period of three years from the date of the examination.

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(f) An applicant who has failed to pass an examination may take subsequent examinations. Examination fees for subsequent examinations shall not be waived.

(g) Any applicant for a license covering the same class or classes of insurance for which the applicant was licensed under a similar license in this state, other than a temporary license, within the three years preceding the date of the application shall be exempt from the requirement of a written examination, unless the previous license was revoked or suspended by the commissioner. An applicant whose license is not renewed under section 60K.12 is exempt from the requirement of a written examination.

Sec. 31. Minnesota Statutes 1998, section 60K.03, subdivision 3, is amended to read:

Subd. 3. **NONRESIDENT AGENT.** The commissioner shall issue a nonresident insurance agent's license to a qualified person who is a resident of another state or country as follows:

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

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

Service of process upon a licensee in an action or proceeding begun in a court of competent jurisdiction of this state may be made in compliance with section 45.028, subdivision 2.

(c) A nonresident agent shall be held to the same knowledge of state insurance law, regulations, and rules as that required of a resident agent according to subdivision 2, paragraph (d).

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

Sec. 32. Minnesota Statutes 1998, section 60K.19, subdivision 7, is amended to read:

Subd. 7. **CRITERIA FOR COURSE ACCREDITATION.** (a) The commissioner may accredit a course only to the extent it is designed to impart substantive and procedural knowledge of the insurance field. The burden of demonstrating that the course satisfies this requirement is on the individual or organization seeking accreditation. The commissioner shall approve any educational program approved by Minnesota Continuing Legal Education relating to the insurance field. The commissioner is authorized to establish a procedure for renewal of course accreditation.

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(b) The commissioner shall approve or disapprove professional designation examinations that are recommended for approval by the advisory task force. In order for an agent to receive full continuing education credit for a professional designation examination, the agent must pass the examination. An agent may not receive credit for classroom instruction preparing for the professional designation examination and also receive continuing education credit for passing the professional designation examination.

(c) The commissioner may not accredit a course:

(1) that is designed to prepare students for a license examination;

(2) in mechanical office or business skills, including typing, speedreading, use of calculators, or other machines or equipment;

(3) in sales promotion, including meetings held in conjunction with the general business of the licensed agent; or

(4) in motivation, the art of selling, psychology, or time management; ~~or~~.

~~(5) which can be completed by the student at home or outside the classroom without the supervision of an instructor approved by the department of commerce, except that home-study courses may be accredited by the commissioner if the student is a nonresident agent residing in a state which is not contiguous to Minnesota.~~

Sec. 33. Minnesota Statutes 1998, section 60K.19, subdivision 8, is amended to read:

Subd. 8. **MINIMUM EDUCATION REQUIREMENT.** Each person subject to this section shall complete a minimum of 30 credit hours of courses accredited by the commissioner during each 24-month licensing period ~~after the expiration of the person's initial licensing period~~, two hours of which must be devoted to state law, regulations, and rules applicable to the line or lines of insurance for which the agent is licensed. ~~At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period.~~ Any person whose initial licensing period extends more than six months shall complete 15 hours of courses accredited by the commissioner during the initial license period. Any person teaching or lecturing at an accredited course qualifies for 1-1/2 times the number of credit hours that would be granted to a person completing the accredited course. No more than 15 credit hours per licensing period may be credited to a person for courses sponsored by, offered by, or affiliated with an insurance company or its agents. Courses sponsored by, offered by, or affiliated with an insurance company or agent may restrict its students to agents of the company or agency.

Sec. 34. Minnesota Statutes 1998, section 61A.276, subdivision 2, is amended to read:

Subd. 2. **ISSUANCE.** The funding agreements may be issued to: (1) individuals; or (2) persons authorized by a state or foreign country to engage in an insurance business or subsidiaries or affiliates of these persons; or (3) entities other than individuals and other than persons authorized to engage in an insurance business, and subsidiaries and affiliates of these persons, for the following purposes: (i) to fund benefits under any employee benefit plan as defined in the Employee Retirement Income Security Act of 1974, as now or hereafter amended, maintained in the United States or in a foreign country; (ii) to fund the activities of any organization exempt from taxation under section 501(c) of the Inter-

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nal Revenue Code of 1986, as amended through December 31, 1992, or of any similar organization in any foreign country; (iii) to fund any program of any state, foreign country or political subdivision thereof, or any agency or instrumentality thereof; ~~or~~ (iv) to fund any agreement providing for periodic payments in satisfaction of a claim; or (v) to fund a program of a financial institution limited to banks, thrifts, credit unions, and investment companies registered under the Investment Company Act of 1940. No funding agreement shall be issued in an amount less than $1,000,000.

Sec. 35. Minnesota Statutes 1998, section 61A.60, subdivision 1, is amended to read:

Subdivision 1. **NOTICE FORM; AGENT SALES.** The notice required where sections 61A.53 to 61A.60 refer to this subdivision is as follows:

IMPORTANT NOTICE

DEFINITION — REPLACEMENT is any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid–up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)

IF YOU INTEND TO REPLACE COVERAGE — In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity(ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide **EVIDENCE OF INSURABILITY** and

(1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.

(2) Your present occupation or activities **may not be covered or could require additional premiums.**

(3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a **CLAIM under the new policy BEING DENIED** that would otherwise have been paid.

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(4) Current law ~~DOES~~ MAY NOT REQUIRE your present insurer(s) to REFUND any premiums.

(5) It is to your advantage to OBTAIN INFORMATION regarding your existing policies or annuity contracts **from the insurer or agent from whom you purchased the policy or annuity contract.**

(If you are purchasing an annuity, clauses (1), (2), and (3) above would not apply to the new annuity contract.)

THE INSURANCE OR ANNUITY I INTEND TO PURCHASE FROM _____ INSURANCE CO. MAY REPLACE OR ALTER EXISTING LIFE INSURANCE POLICY(IES) OR ANNUITY CONTRACT(S).

The following policy(ies) or annuity contract(s) may be replaced as a result of this transaction:

Insurer as it appears on the policy or contract	**Insured as it appears on the policy or contract**
Policy or contract number	**Insured birthdate**

The proposed policy or contract is:

_____ $_____

type of policy– or contract–generic name face amount

_____

signature of applicant date

_____

address of applicant city state

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I certify that this form was given to and completed by

_____
(applicant–please print or type)

prior to taking an application and that I am leaving a signed copy for the applicant.

_____
agent's signature date

_____
address

_____
city state

Note important statement on reverse side

Sec. 36. Minnesota Statutes 1998, section 61B.19, subdivision 3, is amended to read:

Subd. 3. **LIMITATION OF COVERAGE.** Sections 61B.18 to 61B.32 do not provide coverage for:

(1) a portion of a policy or contract under which the investment risk is borne by the policy or contract holder;

(2) a policy or contract of reinsurance, unless assumption certificates have been issued and the insured has consented to the assumption as provided under section 60A.09, subdivision 4a;

(3) a policy or contract issued by an assessment benefit association operating under section 61A.39, or a fraternal benefit society operating under chapter 64B;

(4) any obligation to nonresident participants of a covered retirement plan or to the plan sponsor, employer, trustee, or other party who owns the contract; in these cases, the association is obligated under this chapter only to participants in a covered plan who are residents of the state of Minnesota on the date of impairment or insolvency;

(5) an annuity contract issued in connection with and for the purpose of funding a structured settlement of a liability claim, where the liability insurer remains liable;

(6) a portion of an unallocated annuity contract which is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a governmental lottery, including but not limited to, a contract issued to, or purchased at the direction of, any governmental bonding authority, such as a municipal guaranteed investment contract;

(7) a plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that the plan or program is self–funded or uninsured, including benefits payable by an employer, association, or similar entity under:

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(i) a multiple employer welfare arrangement as defined in the Employee Retirement Income Security Act of 1974, United States Code, title 29, section 1002(40)(A), as amended;

(ii) a minimum premium group insurance plan;

(iii) a stop–loss group insurance plan; or

(iv) an administrative services only contract;

(8) any policy or contract issued by an insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;

(9) an unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation; ~~and~~

(10) a portion of a policy or contract to the extent that it provides dividends or experience rating credits except to the extent the dividends or experience rating credits have actually become due and payable or have been credited to the policy or contract before the date of impairment or insolvency, or provides that a fee or allowance be paid to a person, including the policy or contract holder, in connection with the service to, or administration of, the policy or contract~~.~~; and

(11) a contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

Sec. 37. Minnesota Statutes 1998, section 62A.04, subdivision 3, is amended to read:

Subd. 3. **OPTIONAL PROVISIONS.** Except as provided in subdivision 4, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section. The insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subdivision or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(1) A provision as follows:

CHANGE OF OCCUPATION: If the insured be injured or contract sickness after having changed occupations to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premiums paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes occupations to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt

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of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change of occupation.

(2) A provision as follows:

MISSTATEMENT OF AGE: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

(3) A provision as follows:

OTHER INSURANCE IN THIS INSURER: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for ..... (insert type of coverage or coverages) in excess of $..... (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to the insured's estate, or, in lieu thereof:

Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, or the insured's beneficiary or estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

(4) A provision as follows:

INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

If the foregoing policy provision is included in a policy which also contains the next following policy provision there shall be added to the caption of the foregoing provision the phrase "EXPENSE INCURRED BENEFITS." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved

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by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

(5) A provision as follows:

INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined.

If the foregoing policy provision is included in a policy which also contains the next preceding policy provision there shall be added to the caption of the foregoing provision the phrase — "OTHER BENEFITS." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

(6) A provision as follows:

RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or the insured's average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability com-

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mences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of $200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50, or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

(7) A provision as follows:

UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(8) A provision as follows:

CANCELLATION: The insurer may cancel this policy at any time by written notice delivered to the insured or mailed to the insured's last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. ~~If~~ Regardless of whether it is the insurer or the insured who cancels, ~~the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels,~~ the earned premium shall be computed pro rata, unless the mode of payment is monthly or less, or if the unearned amount is for less than one month. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(9) A provision as follows:

CONFORMITY WITH STATE STATUTES: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

(10) A provision as follows:

ILLEGAL OCCUPATION: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

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(11) A provision as follows:

NARCOTICS: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being under the influence of any narcotic unless administered on the advice of a physician.

Sec. 38. Minnesota Statutes 1998, section 62A.135, subdivision 5, is amended to read:

Subd. 5. **~~SUPPLEMENT TO ANNUAL STATEMENTS~~ SUPPLEMENTAL FILINGS.** Each insurer that has fixed indemnity policies in force in this state shall, ~~as a supplement to the annual statement required by section 60A.13~~ upon request by the commissioner, submit, in a form prescribed by the commissioner, ~~the~~ experience data ~~for the calendar year~~ showing its incurred claims, earned premiums, incurred to earned loss ratio, and the ratio of the actual loss ratio to the expected loss ratio for each fixed indemnity policy form in force in Minnesota. The experience data must be provided on both a Minnesota only and a national basis. If in the opinion of the company's actuary, the deviation of the actual loss ratio from the expected loss ratio for a policy form is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the insurer should also file that opinion with appropriate justification.

If the data submitted does not confirm that the insurer has satisfied the loss ratio requirements of this section, the commissioner shall notify the insurer in writing of the deficiency. The insurer shall have 30 days from the date of receipt of the commissioner's notice to file amended rates that comply with this section or a request for an exemption with appropriate justification. If the insurer fails to file amended rates within the prescribed time and the commissioner does not exempt the policy form from the need for a rate revision, the commissioner shall order that the insurer's filed rates for the nonconforming policy be reduced to an amount that would have resulted in a loss ratio that complied with this section had it been in effect for the reporting period of the supplement. The insurer's failure to file amended rates within the specified time of the issuance of the commissioner's order amending the rates does not preclude the insurer from filing an amendment of its rates at a later time.

Sec. 39. Minnesota Statutes 1998, section 62A.50, subdivision 3, is amended to read:

Subd. 3. **DISCLOSURES.** No long-term care policy shall be offered or delivered in this state, whether or not the policy is issued in this state, and no certificate of coverage under a group long-term care policy shall be offered or delivered in this state, unless a statement containing at least the following information is delivered to the applicant at the time the application is made:

(1) a description of the benefits and coverage provided by the policy and the differences between this policy, a supplemental Medicare policy and the benefits to which an individual is entitled under parts A and B of Medicare;

(2) a statement of the exceptions and limitations in the policy including the following language, as applicable, in bold print: "THIS POLICY DOES NOT COVER ALL NURSING CARE FACILITIES OR NURSING HOME, HOME CARE, OR ADULT DAY CARE EXPENSES AND DOES NOT COVER RESIDENTIAL CARE. READ YOUR POLICY CAREFULLY TO DETERMINE WHICH FACILITIES AND EXPENSES ARE COVERED BY YOUR POLICY.";

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(3) a statement of the renewal provisions including any reservation by the insurer of the right to change premiums;

(4) a statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions;

(5) an explanation of the policy's loss ratio including at least the following language: "This means that, on the average, policyholders may expect that $..... of every $100 in premium will be returned as benefits to policyholders over the life of the contract.";

(6) a statement of the out–of–pocket expenses, including deductibles and copayments for which the insured is responsible, and an explanation of the specific out–of–pocket expenses that may be accumulated toward any out–of–pocket maximum as specified in the policy;

(7) the following language, in bold print: "YOUR PREMIUMS CAN BE INCREASED IN THE FUTURE. THE RATE SCHEDULE THAT LISTS YOUR PREMIUM NOW CAN CHANGE.";

~~(8) the following language, if applicable, in bold print: "IF YOU ARE NOT HOSPITALIZED PRIOR TO ENTERING A NURSING HOME OR NEEDING HOME CARE, YOU WILL NOT BE ABLE TO COLLECT ANY BENEFITS UNDER THIS PARTICULAR POLICY.";~~

~~(9)~~ (8) the following language in bold print, with any provisions that are inapplicable to the particular policy omitted or crossed out: "THIS POLICY HAS A WAITING PERIOD OF ..... (CALENDAR OR BENEFIT) DAYS FOR NURSING CARE SERVICES AND A WAITING PERIOD OF ..... (CALENDAR OR BENEFIT) DAYS FOR HOME CARE SERVICES. THIS MEANS THAT THIS POLICY WILL NOT COVER YOUR CARE FOR THE FIRST ..... (CALENDAR OR BENEFIT) DAYS AFTER YOU ENTER A NURSING HOME, OR THE FIRST ..... (CALENDAR OR BENEFIT) DAYS AFTER YOU BEGIN TO USE HOME CARE SERVICES. YOU WOULD NEED TO PAY FOR YOUR CARE FROM OTHER SOURCES FOR THOSE WAITING PERIODS."; and

~~(10)~~ (9) a signed and completed copy of the application for insurance is left with the applicant at the time the application is made.

Sec. 40. Minnesota Statutes 1998, section 62A.61, is amended to read:

62A.61 **DISCLOSURE OF METHODS USED BY HEALTH CARRIERS TO DETERMINE USUAL AND CUSTOMARY FEES.**

(a) A health carrier that bases reimbursement to health care providers upon a usual and customary fee must maintain in its office a copy of a description of the methodology used to calculate fees including at least the following:

(1) the frequency of the determination of usual and customary fees;

(2) a general description of the methodology used to determine usual and customary fees; and

(3) the percentile of usual and customary fees that determines the maximum allowable reimbursement.

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(b) A health carrier must provide a copy of the information described in paragraph (a) to the commissioner of health or the commissioner of commerce, upon request.

(c) The commissioner of health or the commissioner of commerce, as appropriate, may use to enforce this section any enforcement powers otherwise available to the commissioner with respect to the health carrier. The commissioner of health or commerce, as appropriate, may require health carriers to provide the information required under this section and may use any powers granted under other laws relating to the regulation of health carriers to enforce compliance.

(d) For purposes of this section, "health carrier" has the meaning given in section 62A.011.

(e) "Usual and customary" means the normal charge, in the absence of insurance, of the provider for a service or article, but not more than the prevailing charge in the area for like service or article. A "like service" is the same nature and duration, requires the same skill, and is performed by a provider of similar training and experience. A "like article" is one that is identically or substantially equivalent. "Area" means the municipality or, in the case of a large city, a subdivision of the city, in which the service or article is actually provided or a greater area as is necessary to obtain a representative cross-section of charges for like service or article.

Sec. 41. Minnesota Statutes 1998, section 62A.65, subdivision 5, is amended to read:

Subd. 5. **PORTABILITY AND CONVERSION OF COVERAGE.** (a) No individual health plan may be offered, sold, issued, or with respect to children age 18 or under renewed, to a Minnesota resident that contains a preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, unless the limitation or exclusion is permitted under this subdivision and under chapter 62L, provided that, except for children age 18 or under, underwriting restrictions may be retained on individual contracts that are issued without evidence of insurability as a replacement for prior individual coverage that was sold before May 17, 1993. The individual may be subjected to an 18-month preexisting condition limitation, unless the individual has maintained continuous coverage as defined in section 62L.02. The individual must not be subjected to an exclusionary rider. An individual who has maintained continuous coverage may be subjected to a one-time preexisting condition limitation of up to 12 months, with credit for time covered under qualifying coverage as defined in section 62L.02, at the time that the individual first is covered under an individual health plan by any health carrier. Credit must be given for all qualifying coverage with respect to all preexisting conditions, regardless of whether the conditions were preexisting with respect to any previous qualifying coverage. The individual must not be subjected to an exclusionary rider. Thereafter, the individual must not be subject to any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider under an individual health plan by any health carrier, except an unexpired portion of a limitation under prior coverage, so long as the individual maintains continuous coverage as defined in section 62L.02.

(b) A health carrier must offer an individual health plan to any individual previously covered under a group health plan issued by that health carrier, regardless of the size of the group, so long as the individual maintained continuous coverage as defined in section 62L.02. If the individual has available any continuation coverage provided under sec-

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tions 62A.146; 62A.148; 62A.17, subdivisions 1 and 2; 62A.20; 62A.21; 62C.142; 62D.101; or 62D.105, or continuation coverage provided under federal law, the health carrier need not offer coverage under this paragraph until the individual has exhausted the continuation coverage. The offer must not be subject to underwriting, except as permitted under this paragraph. A health plan issued under this paragraph must be a qualified plan as defined in section 62E.02 and must not contain any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, except for any unexpired limitation or exclusion under the previous coverage. The individual health plan must cover pregnancy on the same basis as any other covered illness under the individual health plan. The initial premium rate for the individual health plan must comply with subdivision 3. The premium rate upon renewal must comply with subdivision 2. In no event shall the premium rate exceed 90 percent of the premium charged for comparable individual coverage by the Minnesota comprehensive health association, and the premium rate must be less than that amount if necessary to otherwise comply with this section. An individual health plan offered under this paragraph to a person satisfies the health carrier's obligation to offer conversion coverage under section 62E.16, with respect to that person. Coverage issued under this paragraph must provide that it cannot be canceled or nonrenewed as a result of the health carrier's subsequent decision to leave the individual, small employer, or other group market. Section 72A.20, subdivision 28, applies to this paragraph.

Sec. 42. Minnesota Statutes 1998, section 62B.04, subdivision 2, is amended to read:

Subd. 2. **CREDIT ACCIDENT AND HEALTH INSURANCE.** (a) The total amount of periodic indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments. If the credit transaction provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index must be used in determining the aggregate of the periodic scheduled unpaid installments of the indebtedness.

(b) If for any reason a policy of credit disability insurance will not or may not provide the policyholder or certificate holder with coverage for the total amount of indebtedness on the related loan or debt in the event of any one instance of disability, the applicant must be given a written disclosure on or accompanying the application. If the disclosure is on the application, it must be immediately above the signature line, within a box and the word "WARNING" must be in 14–point bold face capital letters. The rest of the text must be in capital letters and bold face 10–point print. If the disclosure is on a separate sheet, it must be on an 8–1/2 inch by 11 inch sheet of paper with the word "WARNING" in 14–point bold face capital letters with the remaining text in 10–point bold faced capital letters. If a separate disclosure is used, it must be signed by the applicant with one copy provided to the applicant and one copy maintained by the insurer for at least the term of the policy or certificate, if coverage is issued. The disclosure must state:

WARNING: IF YOU BECOME DISABLED AS DEFINED IN THE POLICY/CERTIFICATE, THIS DISABILITY INSURANCE POLICY/CERTIFICATE MAY NOT COVER YOUR ENTIRE INDEBTEDNESS. IF YOU BECOME

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DISABLED AT A POINT WHERE THE NUMBER OF MONTHLY INSTALLMENT PAYMENTS REMAINING EXCEEDS THE PERIOD OF COVERAGE BEING PROVIDED BY THIS POLICY/CERTIFICATE, THE BENEFITS AVAILABLE WILL BE LESS THAN THE AMOUNT NECESSARY TO PAY OFF YOUR LOAN. IF YOU WANT COVERAGE FOR THE FULL AMOUNT OF YOUR INDEBTEDNESS OR HAVE ANY QUESTIONS ABOUT THE EXTENT OR NATURE OF YOUR COVERAGE, YOU SHOULD DISCUSS THEM WITH YOUR AGENT AND/OR ENROLLER BEFORE SUBMITTING YOUR APPLICATION.

(c) Any policy or certificate of credit disability insurance which contains a critical period must make available for any single instance of disability monthly indemnity benefit payments for the term of the loan, 24 months, or the term of the disability, whichever is less. For the purposes of this section, a critical period is when there is a limited number of monthly benefit payments that may be paid to the beneficiary or the policyholder or certificate holder as a result of any one instance of disability.

(d) Unless the policy or certificate provides for such coverage, nothing in this section shall be interpreted as requiring an insurer to provide coverage for the final payment of a balloon loan or for a period that exceeds the age limitation in the policy or certificate or for amounts that exceed the insurer's maximum liability limits.

Sec. 43. Minnesota Statutes 1998, section 62D.12, subdivision 2, is amended to read:

Subd. 2. **COVERAGE CANCELLATION; NONRENEWAL.** No health maintenance organization may cancel or fail to renew the coverage of an enrollee except for (a) failure to pay the charge for health care coverage; (b) termination of the health care plan; (c) termination of the group plan; (d) enrollee moving out of the area served, subject to section 62A.17, subdivisions 1 and 6, and section 62D.104; (e) enrollee moving out of an eligible group, subject to section 62A.17, subdivisions 1 and 6, and section 62D.104; (f) failure to make copayments required by the health care plan; ~~or~~ (g) fraud or misrepresentation by the enrollee with respect to eligibility for coverage or any other material fact; or (h) other reasons established in rules promulgated by the commissioner of health.

Sec. 44. Minnesota Statutes 1998, section 62E.02, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** For the purposes of sections 62E.01 to ~~62E.16~~ 62E.19, the terms and phrases defined in this section have the meanings given them.

Sec. 45. Minnesota Statutes 1998, section 62E.05, subdivision 1, is amended to read:

Subdivision 1. **CERTIFICATION.** 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~~ 62E.19, 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 contract, or on the schedule page. All qualified plans shall indicate whether they are number one, two, or three coverage plans.

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Sec. 46. Minnesota Statutes 1998, section 62E.09, is amended to read:

62E.09 **DUTIES OF COMMISSIONER.**

The commissioner may:

(a) Formulate general policies to advance the purposes of sections 62E.01 to ~~62E.16~~ 62E.19;

(b) Supervise the creation of the Minnesota comprehensive health association within the limits described in section 62E.10;

(c) Approve the selection of the writing carrier by the association, approve the association's contract with the writing carrier, and approve the state plan coverage;

(d) Appoint advisory committees;

(e) Conduct periodic audits to assure the general accuracy of the financial data submitted by the writing carrier and the association;

(f) Contract with the federal government or any other unit of government to ensure coordination of the state plan with other governmental assistance programs;

(g) Undertake directly or through contracts with other persons studies or demonstration programs to develop awareness of the benefits of sections 62E.01 to 62E.16, so that the residents of this state may best avail themselves of the health care benefits provided by these sections;

(h) Contract with insurers and others for administrative services; and

(i) Adopt, amend, suspend and repeal rules as reasonably necessary to carry out and make effective the provisions and purposes of sections 62E.01 to ~~62E.16~~ 62E.19.

Sec. 47. Minnesota Statutes 1998, section 62E.13, subdivision 6, is amended to read:

Subd. 6. **CLAIMS PAYMENTS.** All claims shall be paid by the writing carrier pursuant to the provisions of sections 62E.01 to ~~62E.16~~ 62E.19, and shall indicate that the claim was paid by the state plan. Each claim payment shall include information specifying the procedure to be followed in the event of a dispute over the amount of payment.

Sec. 48. Minnesota Statutes 1998, section 62E.13, subdivision 8, is amended to read:

Subd. 8. **WRITING CARRIER AS AGENT.** The writing carrier shall at all times when carrying out its duties under sections 62E.01 to ~~62E.16~~ 62E.19 be considered an agent of the association and the commissioner with civil liability subject to the provisions of section 3.751.

Sec. 49. Minnesota Statutes 1998, section 62E.14, subdivision 2, is amended to read:

Subd. 2. **WRITING CARRIER'S RESPONSE.** Within 30 days of receipt of the certificate described in subdivision 1, the writing carrier shall either reject the application for failing to comply with the requirements in subdivision 1 or forward the eligible person a notice of acceptance and billing information. Insurance shall be effective immediately

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upon receipt of the first month's state plan premium, and shall be retroactive to the date of the application, if the applicant otherwise complies with the requirements of sections 62E.01 to ~~62E.16~~ 62E.19.

Sec. 50. Minnesota Statutes 1998, section 62E.15, subdivision 2, is amended to read:

Subd. 2. **ASSOCIATION'S DUTY.** The association shall devise and implement means of maintaining public awareness of the provisions of sections 62E.01 to ~~62E.17~~ 62E.19 and shall administer these sections in a manner which facilitates public participation in the state plan.

Sec. 51. Minnesota Statutes 1998, section 62I.07, subdivision 1, is amended to read:

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 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. Direct written premiums mean that amount at page 14, column (2), lines ~~5~~ 5.1, 8, 9, 17, 21.2, 22, 23, 24, 25, 26, and 27 of the annual statement filed annually with the department of commerce under section 60A.13.

Sec. 52. Minnesota Statutes 1998, section 62L.02, subdivision 24, is amended to read:

Subd. 24. **QUALIFYING COVERAGE.** "Qualifying coverage" means health benefits or health coverage provided under:

(1) a health benefit plan, as defined in this section, but without regard to whether it is issued to a small employer and including blanket accident and sickness insurance, other than accident-only coverage, as defined in section 62A.11;

(2) part A or part B of Medicare;

(3) medical assistance under chapter 256B;

(4) general assistance medical care under chapter 256D;

(5) MCHA;

(6) a self-insured health plan;

(7) the MinnesotaCare program established under section 256L.02;

(8) a plan provided under section 43A.316, 43A.317, or 471.617;

(9) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or other coverage provided under United States Code, title 10, chapter 55;

(10) coverage provided by a health care network cooperative under chapter 62R or by a health provider cooperative under section 62R.17;

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(11) a medical care program of the Indian Health Service or of a tribal organization;

(12) the federal Employees Health Benefits Plan, or other coverage provided under United States Code, title 5, chapter 89;

(13) a health benefit plan under section 5(e) of the Peace Corps Act, codified as United States Code, title 22, section 2504(e); ~~or~~

(14) a health plan; or

~~(14)~~ (15) a plan similar to any of the above plans provided in this state or in another state as determined by the commissioner.

Sec. 53. Minnesota Statutes 1998, section 62L.03, subdivision 5, is amended to read:

Subd. 5. **CANCELLATIONS AND FAILURES TO RENEW.** (a) No health carrier shall cancel, decline to issue, or fail to renew a health benefit plan as a result of the claim experience or health status of the persons covered or to be covered by the health benefit plan. For purposes of this subdivision, a failure to renew does not include a uniform modification of coverage at time of renewal, as described in subdivision 1.

(b) A health carrier may cancel or fail to renew a health benefit plan:

(1) for nonpayment of the required premium;

(2) for fraud or misrepresentation by the small employer with respect to eligibility for coverage or any other material fact;

(3) if the employer fails to comply with the minimum contribution percentage required under subdivision 3; or

(4) for any other reasons or grounds expressly permitted by the respective licensing laws and regulations governing a health carrier, including, but not limited to, service area restrictions imposed on health maintenance organizations under section 62D.03, subdivision 4, paragraph (m), to the extent that these grounds are not expressly inconsistent with this chapter.

(c) A health carrier may fail to renew a health benefit plan:

(1) if eligible employee participation during the preceding calendar year declines to less than 75 percent, subject to the waiver of coverage provision in subdivision 3;

(2) if the health carrier ceases to do business in the small employer market under section 62L.09; or

(3) if a failure to renew is based upon the health carrier's decision to discontinue the health benefit plan form previously issued to the small employer, but only if the health carrier permits each small employer covered under the prior form to switch to its choice of any other health benefit plan offered by the health carrier, without any underwriting restrictions that would not have been permitted for renewal purposes.

(d) A health carrier need not renew a health benefit plan, and shall not renew a small employer plan, if an employer ceases to qualify as a small employer as defined in section 62L.02. If a health benefit plan, other than a small employer plan, provides terms of renewal that do not exclude an employer that is no longer a small employer, the health bene-

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fit plan may be renewed according to its own terms. If a health carrier issues or renews a health plan to an employer that is no longer a small employer, without interruption of coverage, the health plan is subject to section 60A.082.

(e) A health carrier may cancel or fail to renew the coverage of an individual employee or dependent under a health benefit plan for fraud or misrepresentation by the eligible employee or dependent with respect to eligibility for coverage or any other material fact.

Sec. 54. Minnesota Statutes 1998, section 62L.05, subdivision 5, is amended to read:

Subd. 5. **PLAN VARIATIONS.** (a) No health carrier shall offer to a small employer a health benefit plan that differs from the two small employer plans described in subdivisions 1 to 4, unless the health benefit plan complies with all provisions of chapters 62A, 62C, 62D, 62E, 62H, 62N, 62Q, and 64B that otherwise apply to the health carrier, except as expressly permitted by paragraph (b).

(b) As an exception to paragraph (a), a health benefit plan is deemed to be a small employer plan and to be in compliance with paragraph (a) if it differs from one of the two small employer plans described in subdivisions 1 to 4 only by providing benefits in addition to those described in subdivision 4, provided that the health benefit plan has an actuarial value that exceeds the actuarial value of the benefits described in subdivision 4 by no more than two percent. "Benefits in addition" means additional units of a benefit listed in subdivision 4 or one or more benefits not listed in subdivision 4.

Sec. 55. Minnesota Statutes 1998, section 62L.14, subdivision 7, is amended to read:

Subd. 7. **COMPENSATION.** Public directors may be reimbursed by the association for reasonable and necessary expenses incurred by them in performing their duties as directors~~, but shall not otherwise be compensated by the association for their services~~ and may be compensated by the association at a rate of up to $55 per day spent on authorized association activities.

Sec. 56. Minnesota Statutes 1998, section 62Q.105, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT.** Each health plan company shall establish and make available to enrollees, by July 1, ~~1999~~ 2001, an informal complaint resolution process that meets the requirements of this section. A health plan company must make reasonable efforts to resolve enrollee complaints, and must inform complainants in writing of the company's decision within 30 days of receiving the complaint. The complaint resolution process must treat the complaint and information related to it as required under sections 72A.49 to 72A.505.

Sec. 57. Minnesota Statutes 1998, section 62Q.185, is amended to read:

62Q.185 **GUARANTEED RENEWABILITY; LARGE EMPLOYER GROUP HEALTH COVERAGE.**

(a) No health plan company, as defined in section 62Q.01, subdivision 4, shall refuse to renew a health benefit plan, as defined in section 62L.02, subdivision 15, but issued to a large employer, as defined in section 62Q.18, subdivision 1.

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(b) This section does not require renewal if:

(1) the large employer has failed to pay premiums or contributions as required under the terms of the health benefit plan, or the health plan company has not received timely premium payments unless the late payments were received within a grace period provided under state law;

(2) the large employer has performed an act or practice that constitutes fraud or misrepresentation of material fact under the terms of the health benefit plan;

(3) the large employer has failed to comply with a material plan provision relating to employer contribution or group participation rules not prohibited by state law;

(4) the health plan company is ceasing to offer coverage in the large employer market in this state in compliance with United States Code, title 42, section 300gg–12(c), and applicable state law;

(5) in the case of a health maintenance organization, there is no longer any enrollee in the large employer's health benefit plan who lives, resides, or works in the approved service area; or

(6) in the case of a health benefit plan made available to large employers only through one or more bona fide associations, the membership of the large employer in the association ceases, but only if such coverage is terminated uniformly without regard to any health–related factor relating to any covered individual.

(c) This section does not prohibit a health plan company from modifying the premium rate or from modifying the coverage for purposes of renewal.

(d) This section does not require renewal of the coverage of individual enrollees under the health benefit plan if the individual enrollee has performed an act or practice that constitutes fraud or misrepresentation of material fact under the terms of the health benefit plan.

Sec. 58. Minnesota Statutes 1998, section 62Q.30, is amended to read:

62Q.30 **EXPEDITED FACT FINDING AND DISPUTE RESOLUTION PROCESS.**

The commissioner shall establish an expedited fact finding and dispute resolution process to assist enrollees of health plan companies with contested treatment, coverage, and service issues to be in effect July 1, ~~1999~~ 2001. If the disputed issue relates to whether a service is appropriate and necessary, the commissioner shall issue an order only after consulting with appropriate experts knowledgeable, trained, and practicing in the area in dispute, reviewing pertinent literature, and considering the availability of satisfactory alternatives. The commissioner shall take steps including but not limited to fining, suspending, or revoking the license of a health plan company that is the subject of repeated orders by the commissioner that suggests a pattern of inappropriate underutilization.

Sec. 59. Minnesota Statutes 1998, section 62S.01, subdivision 14, is amended to read:

Subd. 14. **LOSS OF FUNCTIONAL CAPACITY.** "Loss of functional capacity" means requiring the substantial assistance of another person to perform the prescribed activities of daily living.

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Sec. 60. Minnesota Statutes 1998, section 62S.05, subdivision 2, is amended to read:

Subd. 2. **PROHIBITED EXCLUSION.** A long-term care insurance policy or certificate, other than a policy or certificate issued to a group as defined in section 62S.01, subdivision 15, clause (1), may not exclude coverage for a loss or confinement that is the result of a preexisting condition ~~unless the loss or confinement begins within~~ more than six months following the effective date of coverage of an insured person.

Sec. 61. Minnesota Statutes 1998, 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 sections 60A.08, subdivision 9; ~~60A.31 to 60A.351~~ 60A.352; 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. 62. Minnesota Statutes 1998, section 65A.01, subdivision 3, is amended to read:

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

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

In consideration of the provisions and stipulations herein or added hereto and of the premium above specified this company, for a term of ..... from ..... (At 12:01 a.m. Stan-

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dard Time) to ..... (At 12:01 a.m. Standard Time) at location of property involved, to an amount not exceeding the amount(s) above specified does insure ..... and legal representatives .....

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This policy shall be canceled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by this company by giving to the insured ~~30 days'~~ a written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

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

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

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

In case of any loss under this policy the insured shall give immediate written notice to this company of any loss, protect the property from further damage, and a statement in writing, signed and sworn to by the insured, shall within 60 days be rendered to the com-

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pany, setting forth the value of the property insured, except in case of total loss on buildings the value of said buildings need not be stated, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used, and the time at which and manner in which the fire originated, so far as known to the insured.

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

In case the insured and this company, except in case of total loss on buildings, shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. In case either fails to select an appraiser within the time provided, then a presiding judge of the district court of the county wherein the loss occurs may appoint such appraiser for such party upon application of the other party in writing by giving five days' notice thereof in writing to the party failing to appoint. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then a presiding judge of the above mentioned court may appoint such an umpire upon application of party in writing by giving five days' notice thereof in writing to the other party. The appraisers shall then appraise the loss, stating separately actual value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this company shall determine the amount of actual value and loss. Each appraiser shall be paid by the selecting party, or the party for whom selected, and the expense of the appraisal and umpire shall be paid by the parties equally.

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

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

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

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

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

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

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

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

Sec. 63. Minnesota Statutes 1998, section 65A.01, is amended by adding a subdivision to read:

Subd. 3c. **TIME REQUIREMENTS.** (a) In the event of a policy less than 60 days old that is not being renewed, or a policy that it is being canceled for nonpayment of premium, the notice must be mailed to the insured so that it is received at least 20 days before the effective cancellation date. If a policy is being canceled for underwriting considerations, the insured must be informed of the source from which the information was received.

(b) In the event of a mid-term cancellation, for reasons listed in subdivision 3a, or according to policy provisions, the insured must receive a 30-day notice.

(c) In the event of a nonrenewal, a 60-day notice must be sent to the insured, containing the specific underwriting or other reason for the indicated actions.

(d) This subdivision does not apply to commercial policies regulated under sections 60A.36 and 60A.37.

Sec. 64. Minnesota Statutes 1998, section 65A.27, subdivision 4, is amended to read:

Subd. 4. "Homeowner's insurance" means insurance coverage, as provided in section 60A.06, subdivision 1, clause (1)(c), normally written by the insurer as a standard homeowner's package policy or as a standard residential renter's package policy. This definition includes, but is not limited to, policies that are generally described as homeowner's policies, mobile/manufactured homeowner's policies, dwelling owner policies, condominium owner policies, and tenant policies.

Sec. 65. Minnesota Statutes 1998, section 65A.29, subdivision 4, is amended to read:

Subd. 4. **FORM REQUIREMENTS.** Any notice or statement required by subdivisions 1 to 3, or any other notice canceling a homeowner's insurance policy must be writ-

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ten in language which is easily readable and understandable by a person of average intelligence and understanding. The statement of reason must be sufficiently specific to convey, clearly and without further inquiry, the basis for the insurer's refusal to renew or to write the insurance coverage.

The notice or statement must also inform the insured of:

(1) the possibility of coverage through the Minnesota property insurance placement facility under sections 65A.31 to 65A.42;

(2) the right to object to the commissioner under subdivision 9; and

(3) the right to the return of unearned premium in appropriate situations under subdivision 10.

Sec. 66. Minnesota Statutes 1998, section 65B.02, subdivision 2, is amended to read:

Subd. 2. **QUALIFIED APPLICANT.** "Qualified applicant" means a person who:

(1) Is a resident of this state,

(2) Owns a motor vehicle registered in accordance with the laws of this state, or has a valid driver's license, or is required to file ~~proof of financial responsibility~~ a certificate of insurance with the commissioner of public safety ~~in accordance with the provisions of this chapter~~, and

(3) Has no unpaid premiums with respect to prior automobile insurance.

Sec. 67. Minnesota Statutes 1998, section 65B.44, subdivision 1, is amended to read:

Subdivision 1. **INCLUSIONS.** Basic economic loss benefits shall provide reimbursement for all loss suffered through injury arising out of the maintenance or use of a motor vehicle, subject to any applicable deductibles, exclusions, disqualifications, and other conditions, and shall provide a ~~maximum~~ minimum of $40,000 for loss arising out of the injury of any one person, consisting of:

(a) $20,000 for medical expense loss arising out of injury to any one person; and

(b) a total of $20,000 for income loss, replacement services loss, funeral expense loss, survivor's economic loss, and survivor's replacement services loss arising out of the injury to any one person.

Sec. 68. Minnesota Statutes 1998, section 65B.48, subdivision 5, is amended to read:

Subd. 5. (a) Every owner of a motorcycle registered or required to be registered in this state or operated in this state by the owner or with the owner's permission shall provide and maintain security for the payment of tort liabilities arising out of the maintenance or use of the motorcycle in this state. Security may be provided by a contract of liability insurance complying with section 65B.49, subdivision 3, or by qualifying as a self insurer in the manner provided in subdivision 3.

(b) At the time an application for motorcycle insurance without personal injury protection coverage is completed, there must be attached to the application a separate

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form containing a written notice in at least 10-point bold type, if printed, or in capital letters, if typewritten that states:

"Under Minnesota law, a policy of motorcycle coverage issued in the State of Minnesota must provide liability coverage only, and there is no requirement that the policy provide personal injury protection (PIP) coverage in the case of injury sustained by the insured. No PIP coverage provided by an automobile insurance policy you may have in force will extend to provide coverage in the event of a motorcycle accident."

Sec. 69. Minnesota Statutes 1998, section 72A.125, subdivision 3, is amended to read:

Subd. 3. **COLLISION DAMAGE WAIVER.** A "collision damage waiver" is a discharge of the responsibility of the renter or leasee to return the motor vehicle in the same condition as when it was first rented. The waiver is a full and complete discharge of the responsibility to return the vehicle in the same condition as when it was first rented. The waiver may not contain any exclusions except those approved by the commissioner ~~pursuant to the requirements contained in section 61A.02, subdivisions 2 to 5~~.

Sec. 70. Minnesota Statutes 1998, section 72A.20, subdivision 29, is amended to read:

Subd. 29. **HIV TESTS; CRIME VICTIMS AND EMERGENCY MEDICAL SERVICE PERSONNEL.** No insurer regulated under chapter 61A ~~or~~, 62B, or 62S, or providing health, medical, hospitalization, long-term care insurance, or accident and sickness insurance regulated under chapter 62A, or nonprofit health ~~services~~ service plan 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 immunodeficiency 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;

(2) obtain or use the performance of or the results of a test to determine the presence of the human immunodeficiency virus (HIV) antibody performed on a patient pursuant to sections 144.761 to 144.7691, or performed on emergency medical services personnel pursuant to the protocol under section 144.762, subdivision 2, 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; for purposes of this clause, "patient" and "emergency medical services personnel" have the meanings given in section 144.761; or

(3) 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 (2); 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) or (2) 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

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purposes must specifically exclude any test performed for the purpose set forth in clause (1) or (2) 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) or (2), including any test to determine the presence of the human immunodeficiency virus (HIV) antibody if such test was performed at the insurer's direction as part of the insurer's normal underwriting requirements.

Sec. 71. Minnesota Statutes 1998, section 72B.04, subdivision 10, is amended to read:

Subd. 10. **FEES.** A fee of $40 is imposed for each initial license or temporary permit and $25 for each renewal thereof or amendment thereto. A fee of $20 is imposed for the registration of each nonlicensed adjuster who is required to register under section 72B.06. All fees shall be transmitted to the commissioner and shall be payable to the ~~state treasurer~~ department of commerce. ~~If a fee is paid for an examination and if within one year from the date of that payment no written request for a refund is received by the commissioner or the examination for which the fee was paid is not taken, the fee is forfeited to the state of Minnesota.~~

Sec. 72. Minnesota Statutes 1998, section 79A.01, subdivision 10, is amended to read:

Subd. 10. **COMMON CLAIMS FUND.** "Common claims fund," with respect to group self-insurers, means the cash, cash equivalents, or investment accounts maintained by the ~~mutual~~ self-insurance group to pay its workers' compensation liabilities.

Sec. 73. Minnesota Statutes 1998, section 79A.01, is amended by adding a subdivision to read:

Subd. 11. **DIMINUTIVE APPLICANTS.** "Diminutive applicants" to group self-insurance means applicants to existing self-insurance groups whose equity and premium are both less than five percent of the total group's equity and premium.

Sec. 74. Minnesota Statutes 1998, section 79A.02, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP.** For the purposes of assisting the commissioner, there is established a workers' compensation self-insurers' advisory committee of five members that are employers authorized to self-insure in Minnesota. Three of the members and three alternates shall be elected by the self-insurers' security fund board of trustees and two members and two alternates shall be appointed by the commissioner.

Sec. 75. Minnesota Statutes 1998, section 79A.02, subdivision 3, is amended to read:

Subd. 3. **AUDIT OF SELF-INSURANCE APPLICATION.** (a) The ~~self-insurer's~~ self-insurers' security fund ~~shall~~ may retain a certified public accountant ~~who shall~~ to perform services for, and report directly to, the commissioner of commerce. When requested by the workers' compensation self-insurers' advisory committee, the certified public accountant shall review ~~each~~ an application to self-insure, including the applicant's financial data. The certified public accountant shall provide a report to the commissioner of commerce indicating whether ~~the~~ that applicant has met the requirements of section 79A.03, subdivisions 2 and 3. Additionally, the certified public accountant shall

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provide advice and counsel to the commissioner about relevant facts regarding ~~the~~ that applicant's financial condition.

(b) If the report of the certified public accountant is used by the commissioner as the basis for the commissioner's determination regarding the applicant's self–insurance status, the certified public accountant shall be made available to the commissioner for any hearings or other proceedings arising from that determination.

(c) The commissioner shall provide the advisory committee with the summary report by the certified public accountant and any financial data in possession of the department of commerce that is otherwise available to the public.

The cost of the review shall be the obligation of the self–insurer's security fund.

Sec. 76. Minnesota Statutes 1998, section 79A.02, subdivision 4, is amended to read:

Subd. 4. **RECOMMENDATIONS TO COMMISSIONER REGARDING REVOCATION.** After each fifth anniversary from the date each individual and group self–insurer becomes certified to self–insure, the committee shall review all relevant financial data filed with the department of commerce that is otherwise available to the public and make a recommendation to the commissioner about whether each self–insurer's certificate should be revoked. For group self–insurers who have been in existence for five years or more and have been granted renewal authority, a level of funding in the common claims fund must be maintained at not less than the greater of either: (1) one year's claim losses paid in the most recent year; or (2) one–third of the security deposit posted with the department of commerce according to section 79A.04, subdivision 2. This provision supersedes any requirements under section 79A.03, subdivision 10, and Minnesota Rules, part 2780.5000.

Sec. 77. Minnesota Statutes 1998, section 79A.03, subdivision 6, is amended to read:

Subd. 6. **APPLICATIONS FOR GROUP SELF–INSURANCE.** (a) Two or more employers may apply to the commissioner for the authority to self–insure as a group, using forms available from the commissioner. This initial application shall be accompanied by a copy of the bylaws or plan of operation adopted by the group. Such bylaws or plan of operation shall conform to the conditions prescribed by law or rule. The commissioner shall approve or disapprove the bylaws within 60 days unless a question as to the legality of a specific bylaw or plan provision has been referred to the attorney general's office. The commissioner shall make a determination as to the application within 15 days after receipt of the requested response from the attorney general's office.

(b) After the initial application and the bylaws or plan of operation have been approved by the commissioner or at the time of the initial application, the group shall submit the names of employers that will be members of the group; an indemnity agreement providing for joint and several liability for all group members for any and all workers' compensation claims incurred by any member of the group, as set forth in Minnesota Rules, part 2780.9920, signed by an officer of each member; and an accounting review performed by a certified public accountant. A certified financial audit may be filed in lieu of an accounting review.

(c) When a group has obtained its authority to self–insure, additional applicants who wish to join the group must apply for approval by submitting, at least 45 days before join-

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ing the group: (1) an application; (2) an indemnity agreement providing for joint and several liability as set forth in Minnesota Rules, part 2780.9920, signed by an officer of the applicant; and (3) a certified financial audit performed by a certified public accountant. An accounting review performed by a certified public accountant may be filed in lieu of a certified audit.

New diminutive applicants to the group, as defined in section 79A.01, subdivision 11, applying for membership in groups in existence longer than one year, who have a combined equity of all group members in excess of 15 times the last retention limit selected by the group with the workers' compensation reinsurance association, and have posted 125 percent of the group's total estimated future liability, must submit the items in this paragraph at least ten days before joining the group.

If the cumulative total of premium added to the group by diminutive new members is greater than 50 percent in a fiscal year of the group, all subsequent new members' applications must be submitted at least 45 days before joining the group.

In all cases of new membership, evidence that cash premiums equal to not less than 20 percent of the current year's modified premium of each applicant have been paid into a common claims fund, maintained by the group in a designated depository, must be filed with the department at least ten days before joining the group.

Sec. 78. Minnesota Statutes 1998, section 79A.03, subdivision 7, is amended to read:

Subd. 7. **FINANCIAL STANDARDS.** A self-insurer group ~~proposing to self-insure~~ shall have and maintain:

(a) A combined net worth of all of the members of an amount at least equal to the greater of ten times the retention selected with the workers' compensation reinsurance association or one-third of the current annual modified premium of the members.

(b) Sufficient assets, net worth, and liquidity to promptly and completely meet all obligations of its members under chapter 176 or this chapter. In determining whether a group is in sound financial condition, consideration shall be given to the combined net worth of the member companies; the consolidated long-term and short-term debt to equity ratios of the member companies; any excess insurance other than reinsurance with the workers' compensation reinsurance association, purchased by the group from an insurer licensed in Minnesota or from an authorized surplus line carrier; other financial data requested by the commissioner or submitted by the group; and the combined workers' compensation experience of the group for the last four years.

Sec. 79. Minnesota Statutes 1998, section 79A.03, subdivision 9, is amended to read:

Subd. 9. **FILING REPORTS.** (a) Incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated outstanding liability for workers' compensation shall be reported to the commissioner by each self-insurer on a calendar year basis, in a manner and on forms available from the commissioner. Payroll information must be filed by April 1 of the following year, ~~and loss information and total workers' compensation liability must be filed by August 1 of the following year~~.

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(b) Each self–insurer shall, under oath, attest to the accuracy of each report submitted pursuant to paragraph (a). Upon sufficient cause, the commissioner shall require the self–insurer to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors: where the losses reported appear significantly different from similar types of businesses; where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of that employer. If any discrepancy is found, the commissioner shall require changes in the self–insurer's or workers' compensation service company record keeping practices.

(c) ~~With the~~ An annual ~~loss~~ status report due August 1 by each self–insurer shall ~~report to the commissioner any workers' compensation claim from the previous year where the full, undiscounted value is estimated to exceed $50,000,~~ be filed in a manner and on forms prescribed by the commissioner.

(d) Each individual self–insurer shall, within four months after the end of its fiscal year, annually file with the commissioner its latest 10K report required by the Securities and Exchange Commission. If an individual self–insurer does not prepare a 10K report, it shall file an annual certified financial statement, together with such other financial information as the commissioner may require to substantiate data in the financial statement.

(e) Each member of the group shall, within ~~four~~ seven months after the end of each fiscal year for that group, file the most recent annual financial statement, reviewed by a certified public accountant in accordance with the Statements on Standards for Accounting and Review Services, Volume 2, the American Institute of Certified Public Accountants Professional Standards, or audited in accordance with generally accepted auditing standards, together with such other financial information the commissioner may require. In addition, the group shall file, within ~~four~~ seven months after the end of each fiscal year for that group, combining financial statements of the group members, compiled by a certified public accountant in accordance with the Statements on Standards for Accounting and Review Services, Volume 2, the American Institute of Certified Public Accountants Professional Standards. The combining financial statements shall include, but not be limited to, a balance sheet, income statement, statement of changes in net worth, and statement of cash flow. Each combining financial statement shall include a column for each individual group member along with a total column.

Where a group has 50 or more members, the group shall file, in lieu of the combining financial statements, a combined financial statement showing only the total column for the entire group's balance sheet, income statement, statement of changes in net worth, and statement of cash flow. Additionally, the group shall disclose, for each member, the total assets, net worth, revenue, and income for the most recent fiscal year. The combining and combined financial statements may omit all footnote disclosures.

(f) In addition to the financial statements required by paragraphs (d) and (e), interim financial statements or 10Q reports required by the Securities and Exchange Commission may be required by the commissioner upon an indication that there has been deterio-

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ration in the self–insurer's financial condition, including a worsening of current ratio, lessening of net worth, net loss of income, the downgrading of the company's bond rating, or any other significant change that may adversely affect the self–insurer's ability to pay expected losses. Any self–insurer that files an 8K report with the Securities and Exchange Commission shall also file a copy of the report with the commissioner within 30 days of the filing with the Securities and Exchange Commission.

Sec. 80. Minnesota Statutes 1998, section 79A.03, subdivision 10, is amended to read:

Subd. 10. **ANNUAL AUDIT AND REFUNDS.** (a) The accounts and records of the group self–insurer's fund shall be audited annually. Audits shall be made by certified public accountants, based on generally accepted accounting principles and generally accepted auditing standards, and supported by actuarial review and opinion of the future contingent liabilities, in order to determine the solvency of the self–insurer's fund. All audits required by this subdivision shall be filed with the commissioner 90 days after the close of the fiscal year for the group self–insurer. The commissioner may require a special audit to be made at other times if the financial stability of the fund or the adequacy of its monetary reserves is in question.

(b) One hundred percent of any surplus money for a fund year in excess of 125 percent of the amount necessary to fulfill all obligations under chapter 176 for that fund year may be declared refundable to a member at any time after 18 months following the end of such fund year. There can be no more than one refund in any 12–month period. When all claims of any one fund year have been fully paid, as certified by an actuary, all surplus money from that fund year may be declared refundable.

Sec. 81. Minnesota Statutes 1998, section 79A.03, is amended by adding a subdivision to read:

Subd. 13. **ANNUAL REQUIREMENTS.** The financial requirements set forth in subdivisions 3, 4, 5, and 7, must be met on an annual basis.

Sec. 82. Minnesota Statutes 1998, section 79A.06, subdivision 5, is amended to read:

Subd. 5. **PRIVATE EMPLOYERS WHO HAVE CEASED TO BE SELF–INSURED.** (a) Private employers who have ceased to be private self–insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self–insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self–insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the entire period the employer was self–insured, whether or not reported during that period, the policy will:

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(i) discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy;

(ii) discharge any obligation which the self–insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period the employer was self–insured, whether or not reported during that period; and

(iii) discharge the obligations of the employer to pay any future assessments to the self–insurers' security fund.

A private employer who has ceased to be a private self–insurer may instead buy an insurance policy described above, except that it covers only a portion of the period of time during which the private employer was self–insured; purchase of such a policy discharges any obligation that the self–insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period for which the policy provides coverage, whether or not reported during that period.

~~The~~ A policy described in this clause may not be issued by an insurer unless it has previously been approved as to form and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self–insurance was in effect. Thereafter, the private employer who has ceased to be a private self–insurer may either: (i) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self–insurance; or (ii) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the calendar year immediately preceding the calendar year in which the employer's right to self–insure is terminated or withdrawn.

(b) With respect to a self–insurer who terminates its self–insurance authority after April 1, 1998, that member shall obtain and file with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability from medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment before termination.

(c) A former member who terminated its self–insurance authority before April 1, 1998, who has paid assessments to the self–insurers' security fund for seven years, and whose annualized assessment is $500 or less, may buy out of its outstanding liabilities to the self–insurers' security fund by an amount calculated as follows: 1.35 multiplied by the indemnity case reserves at the time of the calculation, multiplied by the then current self–insurers' security fund annualized assessment rate.

(d) A former member who terminated its self–insurance authority before April 1, 1998, and who is paying assessments within the first seven years after ceasing to be self–

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insured under paragraph (a), clause (3), may elect to buy out its outstanding liabilities to the self–insurers' security fund by obtaining and filing with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability from medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment.

(e) A former member who has paid the security fund according to paragraphs (b) to (d) and subsequently receives authority from the commissioner to again self–insure shall be assessed under section 79A.12, subdivision 2, only on indemnity benefits paid on injuries that occurred after the former member received authority to self–insure again; provided that the member furnishes verified data regarding those benefits to the security fund.

(f) In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self–insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 5.25, or as otherwise provided by law. The issuance of a certificate to self–insure to the private self–insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

Sec. 83. Minnesota Statutes 1998, section 79A.06, is amended by adding a subdivision to read:

Subd. 6. **PRIVATE EMPLOYERS WHO ARE SELF–INSURED.** Private employers who are currently self–insurers may also purchase a policy described in subdivision 5, paragraph (a), clause (2), of this section, with the same effect as specified in that clause for the period covered by the policy.

Sec. 84. Minnesota Statutes 1998, section 79A.21, subdivision 2, is amended to read:

Subd. 2. **REQUIRED DOCUMENTS.** All first–year applications must be accompanied by the following:

(a) A detailed business plan including the risk profile of the proposed membership, underwriting guidelines, marketing plan, minimum financial criteria for each member, and financial projections for the first year of operation.

(b) A plan describing the method in which premiums are to be charged to the employer members. The plan shall be accompanied by copies of the member's workers' compensation insurance policies in force at the time of application. In developing the premium for the group, the commercial self–insurance group shall base its premium on the

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Minnesota workers' compensation insurers association's manual of rules, loss costs, and classifications approved for use in Minnesota by the commissioner. Each member applicant shall, on a form approved by the commissioner, complete estimated payrolls for the first 12–month period that the applicant will be self–insured. Premium volume discounts per the plan will be permitted if they can be shown to be consistent with actuarial standards.

(c) A schedule indicating actual or anticipated operational expenses of the commercial self–insurance group. No authority to self–insure will be granted unless, over the term of the policy year, at least 65 percent of total revenues from all sources for the year are available for the payment of its claim and assessment obligations. For purposes of this calculation, claim and assessment obligations include the cost of allocated loss expenses as well as special compensation fund and commercial self–insurance group security fund assessments but exclude the cost of unallocated loss expenses.

(d) An indemnity agreement from each member who will participate in the commercial self–insurance group, signed by an officer of each member, providing for joint and several liability for all claims and expenses of all of the members of the commercial self–insurance group arising in any fund year in which the member was a participant on a form approved by the commissioner. The indemnity agreement shall provide for assessments according to the group's bylaws on an individual and proportionate basis.

(e) A copy of the commercial self–insurance group bylaws.

(f) Evidence of the security deposit required under section 79A.24, accompanied by the actuarial certification study for the minimum security deposit as required under section 79A.24.

(g) Each initial member of the commercial self–insurance group shall submit to the commercial self–insurance group accountant its most recent annual financial statement. Financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit, signed by a company officer under oath, stating that there has been no material lessening of the net worth nor other adverse changes in its financial condition since the end of the period. Individual group members constituting at least ~~75~~ 50 percent of the group's annual premium shall submit reviewed or audited financial statements. The remaining members ~~may~~ must submit compilation level statements. Statements for a period ending more than 12 months prior to the date of application cannot be accepted.

(h) A compiled combined financial statement of all group members prepared by the commercial self–insurance group's accountant and a list of members included in such statements. An "Agreed Upon Procedures" report, as determined by the commissioner, indicating combined net worth, total assets, cash flow, and net income of the group members may be filed in lieu of the compiled combined financial statement.

(i) A copy of each member's accountant's report letter from the reports used in compiling the combined financial statements.

(j) A list of all members and the percentage of premium each represents to the total group's annual premium for the policy year.

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Sec. 85. Minnesota Statutes 1998, section 79A.23, subdivision 1, is amended to read:

Subdivision 1. **REQUIRED REPORTS TO COMMISSIONER.** Each commercial self-insurance group shall submit the following documents to the commissioner.

(a) An annual report shall be submitted by April 1 showing the incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated outstanding liability for workers' compensation on a calendar year basis, in a manner and on forms available from the commissioner. In addition each group will submit a quarterly interim loss report showing incurred losses for all its membership.

(b) Each commercial self-insurance group shall submit within 45 days of the end of each quarter:

(1) a schedule showing all the members who participate in the group, their date of inception, and date of withdrawal, if applicable;

(2) a separate section identifying which members were added or withdrawn during that quarter; and

(3) an internal financial statement and copies of the fiscal agent's statements supporting the balances in the common claims fund.

(c) The commercial self-insurance group shall submit an annual certified financial audit report of the commercial self-insurance group fund by April 1 of the following year. The report must be accompanied by an expense schedule showing the commercial self-insurance group's operational costs for the same year including service company charges, accounting and actuarial fees, fund administration charges, reinsurance premiums, commissions, and any other costs associated with the administration of the group program.

(d) An officer of the commercial self-insurance group shall, under oath, attest to the accuracy of each report submitted under paragraphs (a), (b), and (c). Upon sufficient cause, the commissioner shall require the commercial self-insurance group to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors:

(1) where the losses reported appear significantly different from similar types of groups;

(2) where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or

(3) where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of the commercial self-insurance group.

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If any discrepancy is found, the commissioner shall require changes in the commercial self–insurance group's business plan or service company recordkeeping practices.

(e) Each commercial self–insurance group shall submit by September 15 a copy of the group's annual federal and state income tax returns or provide proof that it has received an exemption from these filings.

(f) With the annual loss report each commercial self–insurance group shall report to the commissioner any worker's compensation claim where the full, undiscounted value is estimated to exceed $50,000, in a manner and on forms prescribed by the commissioner.

(g) Each commercial self–insurance group shall submit by May 1 a list of all members and the percentage of premium each represents to the total group's premium for the previous calendar year.

(h) Each commercial self–insurance group shall submit by ~~May 1~~ October 15 the following documents prepared by the group's certified public accountant:

(1) a compiled combined financial statement of group members and a list of members included in this statement~~;~~. An "Agreed Upon Procedures" report, as determined by the commissioner, indicating combined net worth, total assets, cash flow, and net income of the group members may be filed in lieu of the compiled combined financial statement; and

(2) a report that the statements which were combined have met the requirements of subdivision 2.

(i) If any group member comprises over 25 percent of total group premium, that member's financial statement must be reviewed or audited, and, at the commissioner's option, must be filed with the department of commerce by May 1 of the following year.

(j) Each commercial self–insurance group shall submit a copy of each member's accountant's report letter from the reports used in compiling the combined financial statements.

Sec. 86. Minnesota Statutes 1998, section 79A.23, subdivision 2, is amended to read:

Subd. 2. **REQUIRED REPORTS FROM MEMBERS TO GROUP.** Each member of the commercial self–insurance group shall, by ~~April 1~~ September 15, submit to the group its most recent annual financial statement, together with other financial information the group may require. These financial statements submitted must not have a fiscal year end date older than January 15 of the group's calendar year end. Individual group members constituting at least 50 percent of the group's annual premium shall submit to the group reviewed or audited financial statements. The remaining members ~~may~~ must submit compilation level statements.

Sec. 87. Minnesota Statutes 1998, section 256B.0644, is amended to read:

256B.0644 **PARTICIPATION REQUIRED FOR REIMBURSEMENT UNDER OTHER STATE HEALTH CARE PROGRAMS.**

A vendor of medical care, as defined in section 256B.02, subdivision 7, and a health maintenance organization, as defined in chapter 62D, must participate as a provider or

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contractor in the medical assistance program, general assistance medical care program, and MinnesotaCare as a condition of participating as a provider in health insurance plans and programs or contractor for state employees established under section 43A.18, the public employees insurance program under section 43A.316, for health insurance plans offered to local statutory or home rule charter city, county, and school district employees, the workers' compensation system under section 176.135, and insurance plans provided through the Minnesota comprehensive health association under sections 62E.01 to ~~62E.16~~ 62E.19. The limitations on insurance plans offered to local government employees shall not be applicable in geographic areas where provider participation is limited by managed care contracts with the department of human services. For providers other than health maintenance organizations, participation in the medical assistance program means that (1) the provider accepts new medical assistance, general assistance medical care, and MinnesotaCare patients, (2) for providers other than dental services providers, at least 20 percent of the provider's patients are covered by medical assistance, general assistance medical care, and MinnesotaCare as their primary source of coverage, or (3) for dental services providers, at least ten percent of the provider's patients are covered by medical assistance, general assistance medical care, and MinnesotaCare as their primary source of coverage. The commissioner shall establish participation requirements for health maintenance organizations. The commissioner shall provide lists of participating medical assistance providers on a quarterly basis to the commissioner of employee relations, the commissioner of labor and industry, and the commissioner of commerce. Each of the commissioners shall develop and implement procedures to exclude as participating providers in the program or programs under their jurisdiction those providers who do not participate in the medical assistance program. The commissioner of employee relations shall implement this section through contracts with participating health and dental carriers.

Sec. 88. **REPEALER.**

(a) Minnesota Statutes 1998, sections 60A.11, subdivision 24a; 60B.36; 60K.08; 65A.29, subdivision 12; and 79A.04, subdivision 8, are repealed.

(b) Minnesota Statutes 1998, section 60B.44, subdivisions 3 and 5, are repealed.

(c) Minnesota Rules, part 2780.0500, item C, is repealed.

Sec. 89. **EFFECTIVE DATES.**

(a) Sections 1, 3, 5 to 8, 20, 22 to 28, 31, 34, 35, 38, 39, 44 to 51, 54 to 56, 58 to 60, 66, 67, 69 to 87, and 88, paragraph (b), are effective the day following final enactment.

(b) Sections 13 to 15 are effective the day following final enactment and apply to plans of merger approved on or after that date by the board of directors of the first of the constituent corporations to grant such approval. Merging or consolidating insurance corporations may, however, elect to have the changes made by sections 13 to 15 not apply to a merger or consolidation arising out of a joint agreement entered into prior to January 1, 2000.

(c) Section 32 is effective July 1, 2000.

(d) Section 33 is effective December 1, 1999, and applies to all license renewals on or after that date.

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(e) Section 30 is effective as follows:

(1) The amendment to Minnesota Statutes, section 60K.03, subdivision 2, paragraph (d), is effective January 1, 2000.

(2) The amendment to Minnesota Statutes, section 60K.03, subdivision 2, paragraph (e), is effective the day following final enactment.

Presented to the governor May 14, 1999

Signed by the governor May 18, 1999, 4:20 p.m.

CHAPTER 178—H.F.No. 7

An act relating to the environment; providing for the termination of the motor vehicle emissions testing program by March 1, 2000, or earlier; amending Minnesota Statutes 1998, sections 116.60, by adding a subdivision; 116.61, subdivision 1, and by adding a subdivision; 116.62, subdivisions 2, 3, 5, and by adding a subdivision; and 116.63, subdivision 4; repealing Minnesota Statutes 1998, sections 116.60; 116.61; 116.62; 116.63; 116.64; and 116.65.

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

Section 1. Minnesota Statutes 1998, section 116.60, is amended by adding a subdivision to read:

Subd. 12. **TWIN CITIES NONATTAINMENT AREA FOR CARBON MONOXIDE.** "Twin Cities nonattainment area for carbon monoxide" means the areas in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington, and Wright which have been designated as nonattainment for carbon monoxide by the United States Environmental Protection Agency as of January 1, 1999.

Sec. 2. Minnesota Statutes 1998, section 116.61, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** (a) Except as ~~described~~ provided in ~~subdivision~~ subdivisions 1a and 3, each motor vehicle registered to an owner residing in the metropolitan area and each motor vehicle customarily domiciled in the metropolitan area but exempt from registration under section 168.012 or 473.448 must be inspected annually for air pollution emissions as provided in sections 116.60 to 116.65.

(b) The inspections must take place at a public or fleet inspection station. The inspections must take place within 90 days prior to the registration deadline for the vehicle or, for vehicles that are exempt from license fees under section 168.012 or 473.448, at a time set by the agency.

(c) The registration on a motor vehicle subject to paragraph (a) may not be renewed unless the vehicle has been inspected for air pollution emissions as provided in sections 116.60 to 116.65 and received a certificate of compliance or a certificate of waiver.

Sec. 3. Minnesota Statutes 1998, section 116.61, is amended by adding a subdivision to read:

Subd. 3. **TERMINATION OF TESTING REQUIREMENT.** Notwithstanding subdivision 1, a motor vehicle is not required to be inspected annually for air pollution

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