

CHAPTER 61A

LIFE INSURANCE GENERALLY

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GENERAL PROVISIONS

**61A.01 LIFE INSURANCE COMPANY DEFINED.** Every corporation or association, domestic or foreign, operating upon any plan involving payment of money or other thing of value to policy or certificate holders, or members, or families, or representatives of either, conditioned upon the continuance or cessation of human life, or for the payment of endowments or annuities (except benevolent, fraternal, cooperative or secret societies of orders for the sole purpose of mutual welfare, protection and relief of their members and the payment of stipulated amounts, or the proceeds of assessments, to the families of deceased members), shall be deemed a life insurance company, and wherever used in this chapter, the terms "company", "life company", "corporation" or "association" shall be construed to mean life insurance company unless the context clearly indicates otherwise.

[1967 c 395 art 2 s 1]

CONTRACTS

**61A.02 FORMS OF POLICY.** Subdivision 1. **Prohibited.** So-called coupon policies shall not be issued or delivered by any company to any residents of this state.

Subd. 2. **Approval required.** No policy of life insurance nor any rider of any kind or description which is made a part thereof shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, until the form of the same has been filed with the commissioner; and after he shall have notified any company of his disapproval of any form, it shall be unlawful for the company to issue any policy in the form so disapproved. The com-

missioner's action shall be subject to review by any court of competent jurisdiction.

[1967 c 395 art 2 s 2]

**61A.03 NECESSARY PROVISIONS.** No policy of life insurance shall be issued in this state or be issued by a life insurance company organized under the laws of this state unless the same contains the following provisions:

(1) **Premium.** A provision that all premiums shall be payable in advance either at the home office of the company, or to an agent of the company, upon delivery of a receipt signed by one or more officers named in the policy and counter-signed by the agent, but any policy may contain a provision that the policy itself shall be a receipt for the first premium;

(2) **Grace period.** A provision for a grace of one month for the payment of every premium after the first, which may be subject to an interest charge, during which month the insurance shall continue in force, which provision may contain a stipulation that if the insured dies during the month of grace the overdue premium will be deducted in any settlement under the policy;

(3) **Entire contract.** A provision that the policy constitutes the entire contract between the parties and is incontestable after it is in force during the lifetime of the insured for two years from its date, except for non-payment of premiums and except for violations of the conditions of the policy relating to naval and military services in time of war and, at the option of the company, provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident, may be excepted, a special form of policy may be issued on the life of a person employed in an occupation classed by the company as extra hazardous or as leading to hazardous employment, which provides that service in certain designated occupations may reduce the company's liability under the policy to a certain designated amount not less than the full policy reserve;

(4) **Representations and warranties.** A provision that, in the absence of fraud, all statements made by the insured shall be deemed representations and not warranties, and that no such statement shall avoid the policy unless it is contained in a written application, and a copy of the application is endorsed upon or attached to the policy when issued;

(5) **Misstatement of age.** A provision that if the age of the insured is understated, the amount payable under the policy shall be such as the premium would have purchased at the correct age;

(6) **Dividends on participating policies.** A provision that the policy shall participate in the surplus of the company and that, beginning not later than the end of the third policy year, the company will, annually, determine and account for the portion of the divisible surplus accruing on the policy, and that the owner of the policy shall have the right, each year after the fifth to have the current dividend arising from such participation paid in cash, and if the policy shall provide other dividend options, it shall specify which option shall be effective if the owner of the policy shall not elect any option, which provision may stipulate that any dividends payable during the first five years of such policy shall be conditioned upon the payment of the next ensuing annual premium; this provision shall not be required in non-participating policies, nor in policies issued on under-average lives, nor in insurance in exchange for lapsed or surrendered policies;

(7) **Policy loans.** A provision that after three full years premiums have been paid, the company at any time while the policy is in force, will advance, on proper assignment of the policy, and on the sole security thereof, at a specified rate of interest, a sum equal to, or, at the option of the owner of the policy, less than the loan value thereof. Such loan value shall be the cash surrender value thereof at the end of the current policy year, and the policy shall provide that such loan, except when made to pay premiums, may be deferred for not exceeding six months after the application therefor is made; it shall be further stipulated in the policy that the company will deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premium for current policy year, and may collect interest in advance on the loan to the end of the current policy year, and that the failure to repay any such advance or to pay interest shall not void the policy unless the total indebtedness thereon to the company shall equal or exceed such loan value at the time of such failure, nor until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee of record at the home office of the company; no condition other than

as herein provided shall be exacted as a prerequisite to any such advance; but this provision shall not be required in term insurance.

(8) **Reinstatement.** A provision that if, in event of default in premium payments, the nonforfeiture value of the policy shall be applied to the purchase of other insurance, and if such insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three years from such default, upon evidence of insurability satisfactory to the company, and payment of arrears of premiums, with interest;

(9) **Payment of claims.** A provision that, when a policy becomes a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than two months after receipt of such proof;

(10) **Settlement option.** A table showing the amount of installments in which the policy may provide its proceeds may be payable;

(11) **Description of policy.** A title on the face and on the back of the policy briefly and correctly describing in bold letters the same, and so specifying its general character, dividend periods, and other particulars, that the holder will not be able to mistake the nature and scope of the contract.

Any of the foregoing provisions or portions thereof relating to premiums not applicable to single premium policies shall not be incorporated therein.

[1967 c 395 art 2 s 3]

**61A.04 SPENDTHRIFT PROVISIONS.** In addition to the provisions now required by law to be in the standard form of life insurance policies issued or delivered in this state, there shall be, when such policy provides for the payment to the beneficiary the proceeds thereof, in either monthly, quarterly, semi-annual or annual installments, to continue during the lifetime of the beneficiary, or for a stipulated number of years, whenever requested by the insured under the policy, the following provisions:

All rights of the beneficiary to commute, change time of payment or amount of installments, surrender for cash, borrow against or assign for any purpose, are hereby withdrawn and those parts of this policy giving the beneficiary such rights are hereby declared inoperative and void; it being the intent hereof that the beneficiary shall have no right under this contract except to receive the installments at such times and in such amounts as stated in this policy, and all the provisions of this policy in conflict herewith are hereby declared to be inoperative.

This provision may be attached to any policy in the form of a rider thereon, and, when so attached, shall become a part of and form a part of the contract of insurance, evidenced by the policy to all intents and purposes as if set forth at length therein.

[1967 c 395 art 2 s 4]

**61A.05 LIFE POLICIES TO CONTAIN ENTIRE CONTRACT.** Every policy of insurance issued or delivered within this state on or after the first day of January, 1908, by any life insurance corporation doing business within the state, shall contain the entire contract between the parties.

Every policy which contains a reference to the application, either as a part of the policy or as having any bearing thereon, shall have a copy of such application attached thereto or set out therein.

[1967 c 395 art 2 s 5]

**61A.06 AVIATION AND WAR RISK EXCLUSION PERMITTED.** Policies of life insurance may be delivered or issued for delivery in this state which limit the amount to be paid in the event of death occurring as a result of travel or flight in, or descent from or with, any kind of aircraft if the insured (1) is a pilot, officer or member of the crew of such aircraft, or is participating in aeronautic or aviation training during such flight, or (2) is in the military, naval or air forces of any country and is being transported in a military, naval or air force aircraft. Such amount shall not be less than the reserve on the policy plus any dividends standing to the credit of the policy and the reserve for any paid-up additions, less any indebtedness to the company on the policy. Such limitation may be made by a provision in the policy or by a rider made a part thereof provided, that no such limitation shall be effective unless and until the insured or applicant shall agree in writing thereto; and provided, further, that except in case of policies issued on the lives of persons who have received aeronautic or aviation training or whose occupation entails duty aboard aircraft in flight, such limitation shall apply only in event death occurs within five years after date of issue of the policy. This sec-

tion shall not affect the validity of provisions which limit the amount to be paid in the event of death of the insured while in the military, naval or air forces of any country at war, or of provisions relative to benefits in the event of total and permanent disability, or of provisions which grant additional insurance specifically against death by accident. Policies issued by life insurance companies organized under the laws of this state for delivery in any other state, territory, district, or country may contain any provisions limiting the amount to be paid in the event of death which are permitted by the laws of such other state, territory, district, or country.

[1967 c 395 art 2 s 6]

**61A.07 PROHIBITED PROVISIONS.** No policy of life insurance shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, if it contains a provision:

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

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

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

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

[1967 c 395 art 2 s 7]

**61A.08 EXCEPTIONS.** Sections 61A.02, 61A.03, 61A.07, 61A.23, and 61A.25 shall not, except as expressly provided in this chapter, apply to annuities, industrial or group term policies, or to corporations or associations operating on the assessment or fraternal plan, and in every case where a contract provides for both insurance and annuities, sections 61A.02, 61A.03 and 61A.07 shall apply only to that part of the contract which provides for insurance, but every contract containing a provision for a deferred annuity on the life of the insured only, unless paid for by a single premium, shall provide that, in event of the non-payment of any premium after three full years' premium shall have been paid, the annuity shall automatically become converted into a paid-up annuity for that proportion of the original annuity as the number of completed years' premiums paid bears to the total number of premiums required under the contract.

[1967 c 395 art 2 s 8]

**61A.09 GROUP LIFE INSURANCE.** Subdivision 1. No group life insurance policy shall be issued for delivery in this state until the form thereof and the form of any certificates issued thereunder have been filed in accordance with and subject to the provisions of section 61A.02. Each person insured under such a group life insurance policy (excepting policies which insure the lives of debtors of a creditor or vendor to secure payment of indebtedness) shall be furnished a certificate of insurance issued by the insurer and containing the following:

(a) Name and location of the insurance company;

(b) A statement as to the insurance protection to which the certificate holder is entitled, including any changes in such protection depending on the age of the person whose life is insured;

(c) Any and all provisions regarding the termination or reduction of the certificate holder's insurance protection;

(d) A statement that the master group policy may be examined at a reasonably accessible place;

(e) The maximum rate of contribution to be paid by the certificate holder;

(f) Beneficiary and method required to change such beneficiary;

(g) In the case of a group term insurance policy if the policy provides that insurance of the certificate holder will terminate, in case of a policy issued to an employer, by reason of termination of the certificate holder's employment, or in case of

a policy issued to an organization of which the certificate holder is a member, by reason of termination of his membership, a provision to the effect that in case of termination of employment or membership the certificate holder shall be entitled to have issued to him by the insurer, without evidence of insurability, upon application made to the insurer within 31 days after termination of employment or membership, and upon payment of the premium applicable to the class of risk to which he belongs and to the form and amount of the policy at his then attained age, a policy of life insurance only, in any one of the forms customarily issued by the insurer except term insurance, in an amount equal to the amount of his life insurance protection under such group insurance policy at the time of such termination; and shall contain a further provision to the effect that upon the death of the certificate holder during such 31-day period and before any such individual policy has become effective, the amount of insurance for which the certificate holder was entitled to make application shall be payable as a death benefit by the insurer.

Subd. 2. Any or all of the interests of a certificate holder under any group life insurance policy (excepting policies which insure the lives of debtors of a creditor or vendor to secure payment of indebtedness) may be assigned by an assignment executed by the owner of such interest and delivered to the insurer if the provisions of the policy so permit or if both the insurer and the master policyholder agree to such assignment.

An assignment of interests of a certificate holder valid hereunder may transfer to the assignee any or all the rights, privileges, and incidents of ownership of the certificate holder in the group life insurance policy and group certificate thereunder, including, but not limited to the rights to designate beneficiaries and to have an individual policy issued in accordance with subdivision 1, clause (g).

Any assignment in accordance with this subdivision shall entitle the insurer to deal with the assignee in accordance with the terms of the assignment until the insurer has received at its home office written notice of a subsequent assignment made by such assignee; provided, however, that the insurer shall not be prejudiced by any payment made or action taken inconsistent with the terms of any assignment before the insurer has received and had reasonable time to act on written notice of such assignment.

This subdivision declares and codifies without modifying the existing right of assignment of interests of certificate holders under group life insurance policies by the persons owning such interests. An assignment otherwise valid shall not be invalid because it was made prior to the enactment of this subdivision.

[1967 c 395 art 2 s 9; 1973 c 439 s 1]

**61A.10 EXTENSION OF TIME FOR PAYMENT OF PREMIUMS.** Parties to any policy of life insurance now or hereafter issued shall have the right at any time to mutually agree, in writing, for an extension of time in which to pay a second or subsequent premium on the policy, upon condition that the failure to pay the amount agreed upon at the time agreed, shall lapse the policy as of the date mutually agreed upon in the writing; provided, no such agreement shall impair any right to extended or paid-up insurance which the insured may have under the policy, nor any right to have the premiums, any part thereof, or the amount payable for the extension charged against the policy under the terms of the policy. No such agreement need be attached to or made a part of the insurance policy so affected.

[1967 c 395 art 2 s 10]

**61A.11 MISSTATEMENT, WHEN NOT TO INVALIDATE POLICY.** In any claim upon a policy issued in this state without previous medical examination, or without the knowledge or consent of the insured, or, in case of a minor, without the consent of his parent, guardian, or other person having his legal custody, the statements made in the application as to the age, physical condition, and family history of the insured shall be valid and binding upon the company, unless wilfully false or intentionally misleading.

[1967 c 395 art 2 s 11]

**61A.12 BENEFICIARIES.** Subdivision 1. **Proceeds of life policy, who entitled to.** When any insurance is effected in favor of another, the beneficiary shall be entitled to its proceeds against the creditors and representatives of the person effecting the same. All premiums paid for insurance in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy, if the company be specifically notified thereof, in writing, before payment.

**Subd. 2. Exemption in favor of family.** Every policy made payable to, or for the benefit of, the wife of the insured, or after its issue assigned to or in trust for her, shall inure to her separate use and that of her children, subject to the provisions of this section.

**Subd. 3.** [Repealed, 1973 c 725 s 91]

**Subd. 4. Change of beneficiary.** The person applying for and procuring a policy may change the beneficiary or beneficiaries, if the consent of the beneficiary or beneficiaries named in the policy is obtained, or if a power so to do is reserved in the contract of insurance, or in case of the death or divorcement of a married woman named as beneficiary.

[1967 c 395 art 2 s 12]

#### CONTRACTS—VARIABLE BASIS

**61A.13 DEFINITIONS.** Subdivision 1. **Contract on a variable basis.** When used in sections 61A.13 to 61A.21, "contract on a variable basis" means any contract on either a group or an individual basis issued by a life insurance company providing for the dollar amount of benefits or other contractual payments or values thereunder to vary so as to reflect investment results of a separate account in which amounts have been placed in connection with any such contracts. Such contracts may also provide benefits or values incidental thereto payable in fixed or variable dollar amounts, or both.

**Subd. 2.** [Repealed, 1969 c 752 s 18]

[1967 c 395 art 2 s 13; 1969 c 752 s 1; 1973 c 480 s 1]

**61A.14 COMPANIES ENTITLED TO ISSUE CONTRACTS; ACCOUNTS; INVESTMENTS.** Subdivision 1. **Separate accounts.** Any domestic life insurance company may, by or pursuant to resolution of its governing body, establish and operate one or more separate accounts and issue contracts on a variable basis, subject to the provisions of sections 61A.13 to 61A.21.

**Subd. 2. Allocations to account.** Except as may be otherwise specifically provided by the contract concerned, all amounts received by a life insurance company in connection with any contract on a variable basis shall be allocated to the appropriate separate account. The income, if any, and gains or losses, realized or unrealized on each such account may be credited to or charged against the amount allocated to such account in accordance with such contract, without regard to the other income, gains, or losses of the company.

**Subd. 3. Investments.** Except as hereinafter provided, amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to (a) benefits guaranteed as to amount and duration, and (b) funds guaranteed as to principal amount or stated rate of interest is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be, except as the commissioner may otherwise approve, invested in accordance with the laws of this state governing the investments of life insurance companies and shall be segregated from the other assets in the separate account.

**Subd. 4. Other investments.** For purposes of determining whether the capital, surplus and other funds of a domestic life insurance company, other than assets held in a separate account pursuant to this section, are invested in accordance with sections 60A.11 and 61A.28 to 61A.31, assets held by the company in a separate account in accordance with this section shall be disregarded.

**Subd. 5. Account ownership.** The assets held in a separate account pursuant to this section shall be owned by the company, and the company shall not be, nor hold itself out to be, a trustee with respect to such amounts. If and to the extent so provided under the applicable contracts or as required pursuant to the Federal Investment Company Act of 1940 that portion of the assets of any such separate account equal to reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct, but shall be held and applied exclusively for the benefit of the holders of those contracts on a variable basis for which the separate account has been established, provided, however, that the assets shall always be at least equal to the reserves and other contract liabilities with respect to such account.

**Subd. 6. Compliance with laws.** To the extent such company deems it neces-

sary to comply with any applicable federal or state laws, such company, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with such company, to manage the business of such account.

**Subd. 7. Valuation of assets.** Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that unless otherwise approved by the commissioner, a portion of the assets of such separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in clauses (a) and (b) of subdivision 3, if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

**Subd. 8. Transfer of assets.** No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, (a) in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the contractual obligations of the company with respect to the separate account to which the transfer is made, or (b) in case of a transfer from a separate account, such transfer would not cause the remaining assets of the account to become less than the reserves and other contract liabilities with respect to such separate account. Such transfer, whether into or from a separate account, shall be made by a transfer of cash, or by a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the commissioner. The commissioner may approve other transfers among such accounts if, in his opinion, such transfers would not be inequitable. Where a company transfers assets into a separate account for the purpose of establishing such account, such transfer shall be in the form of cash and, except as the commissioner may otherwise approve, shall be made only from its surplus, provided that not more than five percent of its surplus may be so invested in such accounts.

[1967 c 395 art 2 s 14; 1969 c 7 s 21-23; 1969 c 752 s 2-8; 1973 c 480 s 2]

**61A.15 CONTRACT PROVISIONS.** Subdivision 1. **Variable annuity.** All annuity contracts on a variable basis issued in this state shall stipulate the expense, mortality, and investment-increment factors to be used in computing (1) in the case of individual contracts, the dollar amount of variable benefits or other contractual payments or values, and (2) in the case of group contracts, the dollar amount payable with respect to a unit of variable benefits purchased thereunder. All such contracts shall guarantee that expenses shall not affect such dollar amounts adversely. In computing the dollar amount of variable benefits or other contractual payments or values under an individual contract on a variable basis, (a) the annual net investment increment assumption shall not exceed five percent, except with the approval of the commissioner, and (b) to the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age, or, if approved by the commissioner, from another table. The term "expense", as used in this section, may exclude some or all taxes as stipulated in the contracts and may also exclude any investment management fee which is subject to change with the approval by vote of the holders of such contracts.

**Subd. 2. Variable life insurance.** Any life insurance contract on a variable basis delivered or issued for delivery in this state shall stipulate the investment increment factor to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts.

[1967 c 395 art 2 s 15; 1969 c 752 s 9; 1973 c 480 s 3]

**61A.16 CONTRACT PROVISIONS.** Any contract on a variable basis providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits.

Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state the manner in which such dollar amounts will vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

[1967 c 395 art 2 s 16; 1969 c 752 s 10]

**61A.17 FILING OF CONTRACTS.** No contract on a variable basis shall be issued in this state until a copy of the form thereof (and, in the case of a group contract, the form of any certificate evidencing variable benefits issued pursuant thereto) and any form of application for such contract shall have been filed with the commissioner. No life insurance contract on a variable basis shall be filed for issuance in Minnesota or issued in Minnesota before the commissioner has promulgated rules and regulations under section 61A.20 regarding life insurance contracts on a variable basis.

[1967 c 395 art 2 s 17; 1969 c 752 s 11; 1973 c 480 s 7; 1974 c 203 s 1]

**61A.18 DISAPPROVAL OF CONTRACTS.** The commissioner shall have the power at any time to disapprove any contract form, application, or certificate (1) if it does not comply with the provisions of sections 61A.13 to 61A.21; or (2) if it contains provisions which are unjust, unfair, inequitable, ambiguous, or misleading. After the commissioner shall have notified a company of his disapproval, it shall be unlawful for that company to issue or use the contract, application or certificate in the form so disapproved.

[1967 c 395 art 2 s 18; 1969 c 752 s 12]

**61A.19 COMPANY REQUIREMENTS.** No company shall deliver or issue for delivery within this state contracts on a variable basis unless it is licensed or organized to do a life insurance or annuity business in this state, and the commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the commissioner shall consider among other things:

(a) The history and financial condition of the company;

(b) The character, responsibility and fitness of the officers and directors of the company; and

(c) The law and regulation under which the company is authorized in the state of domicile to issue such contracts. The state of entry of an alien company shall be deemed to be state of domicile for this purpose.

A licensed company which issues contracts on a variable basis and which is a subsidiary of, or affiliated through common management or ownership with, another life insurance company authorized to do business in this state may be deemed to have met the provisions of this section if either it or the parent or affiliated company satisfies the aforementioned provisions.

[1967 c 395 art 2 s 19; 1969 c 752 s 13; 1973 c 480 s 4]

**61A.20 RULES AND REGULATIONS.** Notwithstanding any other provision of law, the commissioner shall have sole and exclusive authority to regulate the issuance and sale of contracts on a variable basis and to provide for licensing of persons selling such contracts, and to issue such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of sections 61A.13 to 61A.21.

[1967 c 395 art 2 s 20; 1969 c 7 s 24; 1969 c 752 s 14]

**61A.21 APPLICATION OF OTHER LAWS.** Section 61A.07, clause (4) shall not apply to contracts on a variable basis. All other appropriate provisions of chapter 61A shall apply to separate accounts and contracts on a variable basis except those which are inconsistent with the provisions contained in sections 61A.13 to 61A.20. Any contract on a variable basis, delivered or issued for delivery in this state, shall contain in substance provisions for grace, settlement option, loan or withdrawal and nonforfeiture appropriate to such a contract and a life insurance contract on a variable basis should also contain in substance a provision for reinstatement appropriate to such a contract. The reserve liability for contracts on a variable basis shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

[1967 c 395 art 2 s 21; 1969 c 752 s 15; 1973 c 480 s 5]

#### CONTRACTS—MISCELLANEOUS

**61A.22 CONTRACTS TO SPECIFY BENEFITS AND CONSIDERATION.** No life insurance company shall make any insurance, guaranty, contract, or pledge in



this state, or to or with any citizen or resident thereof, which does not distinctly specify the amount and manner of payment of benefits and the consideration therefor, except that contracts on a variable basis need not specify the amount of benefits thereunder or consideration after the initial premium.

[1967 c 395 art 2 s 22; 1973 c 480 s 6]

**61A.23 PROVISIONS IN POLICIES; LAWS OF OTHER STATES.** The policies of a life insurance company, not organized under the laws of this state, may contain any provision which the laws of the state, territory, district, or country under which the company is organized, prescribe shall be in such policies, and the policies of a life insurance company organized under the laws of this state may, when issued or delivered in any other state, territory, district, or country, contain any provision required by the laws of the state, territory, district, or country in which the same are issued, anything in sections 61A.02, 61A.03, 61A.07, 61A.08, 61A.23, and 61A.25 to the contrary notwithstanding.

[1967 c 395 art 2 s 23]

#### STANDARD NONFORFEITURE LAW

**61A.24 STANDARD NONFORFEITURE LAW.** Subdivision 1. **Citation.** This section shall be known as the Standard Nonforfeiture Law.

Subd. 2. **Policy provisions.** No policy of life insurance, except as stated in subdivision 14, shall hereafter be issued or delivered in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(1) That, in the event of default in any premium payment, the company will grant, upon proper request not later than 60 days after the date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

(2) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(3) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

(4) That, if the policy shall have become paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(5) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(6) A brief and general statement of the method to be used in calculating the cash surrender value and the paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values are consecutively shown in the policy with an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy.

Subd. 3. **Exception; deferred payment.** Any provision or portion of subdivision 2 not applicable by reason of the plan of insurance may be omitted from the policy. The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

**Subd. 4. Cash surrender value.** Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subdivisions 2 and 3 shall be an amount not less than the excess of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (1) the then present value of the adjusted premiums as prescribed in subdivisions 6 to 12, corresponding to premiums which would have fallen due on and after such anniversary, and (2) the amount of any indebtedness to the company on the policy. Any cash surrender value available within 30 days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subdivisions 2 and 3, shall be an amount not less than the present value on such anniversary of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

**Subd. 5. Paid-up nonforfeiture benefit.** Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

**Subd. 6. Calculation of adjusted premiums; general.** Except as provided in subdivision 8, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year (excluding extra premiums on a substandard policy) that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (1) the then present value of the future guaranteed benefits provided for by the policy; (2) two percent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (3) 40 percent of the adjusted premium for the first policy year; (4) 25 percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. In applying the percentages specified in (3) and (4), no adjusted premiums shall be deemed to exceed four percent of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

**Subd. 7. Adjusted premiums; varying amount of insurance.** In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of subdivisions 6 to 11 is the uniform amount of insurance provided by an otherwise similar policy containing the same endowment benefit or benefits issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

**Subd. 8. Adjusted premiums; supplemental term insurance.** The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in subdivisions 6 and 7 except that, for the purposes of (2), (3) and (4) of subdivision 6, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the cor-

responding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

**Subd. 9. Adjusted premiums; ordinary insurance.** In the case of ordinary policies hereafter issued all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half percent per annum except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after April 11, 1974 and prior to January 1, 1986, and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with the accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

**Subd. 10. Adjusted premiums; industrial insurance.** Except as otherwise provided in subdivisions 11 and 12, all adjusted premiums and present values referred to in this section shall for all policies of Industrial insurance be calculated on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130 percent of the rates of mortality according to such applicable table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

**Subd. 11. Adjusted premiums; industrial insurance.** In the case of industrial policies issued on or after the operative date of this subdivision as defined in subdivision 12, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half percent per annum, except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after April 11, 1974 and prior to January 1, 1986. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculations of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

**Subd. 12. Operative date of subdivision 11.** After April 9, 1963, any company may file with the commissioner a written notice of its election to comply with the provisions of subdivision 11 after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of subdivision 11 for such company), subdivision 11 shall become operative with respect to the Industrial policies thereafter issued by such company. If a company makes no such election, the operative date of subdivision 11 for such company shall be January 1, 1968.

**Subd. 13. Default in premium payment.** Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subdivisions 4 to 12 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up addi-

tions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subdivision 4, additional benefits payable (1) in the event of death or dismemberment by accident or accidental means, (2) in the event of total and permanent disability, (3) as reversionary annuity or deferred reversionary annuity benefits, (4) as term insurance benefits provided by a rider or supplemental policy provisions to which, if issued as a separate policy, this section would not apply, (5) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child, and (6) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

Subd. 14. **Application.** The foregoing subdivisions of this section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract nor to any term policy of uniform amount, or renewal thereof, of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subdivisions 6 to 12, is less than the adjusted premium so calculated, on such 15-year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.

[1967 c 395 art 2 s 24; 1974 c 433 s 1, 2]

#### STANDARD VALUATION LAW

**61A.25 STANDARD VALUATION LAW.** Subdivision 1. **Citation.** This section shall be known as the standard valuation law.

Subd. 2. **Valuation of reserves.** The commissioner shall cause to be valued annually the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, except that in the case of a foreign or alien insurer such valuation shall be limited to its insurance transactions in the United States, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. In the case of insurance issued by a domestic insurer upon the lives of residents of a foreign country, the commissioner may vary the mortality standard to a standard applicable to that country.

Subd. 3. **Minimum standards of valuation generally.** Except as otherwise provided in subdivision 3a, the minimum standard for the valuation of all such policies and contracts issued prior to the operative date of Laws 1947, Chapter 182, shall be that provided by the laws in effect immediately prior to such date. Except as otherwise provided in subdivision 3a, the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of Laws 1947, Chapter 182, shall be the commissioner's reserve valuation method described in subdivision 4, three and one-half percent interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after April 11, 1974 and prior to January 1, 1986, four percent interest and the following tables:

(1) For all Ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Com-

missioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of section 61A.24, subdivision 9 and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in Laws 1959, Chapter 26, may be calculated according to an age not more than three years younger than the actual age of the insured.

(2) For all Industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of section 61A.24, subdivision 11 and the Commissioners 1961 Standard Industrial Mortality Table for such policies issued on or after such operative date.

(3) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

(4) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(5) For total and permanent disability benefits in or supplemental to Ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1963, and prior to January 1, 1966, either such tables or, at the option of the company, the class (3) disability table (1926); and for policies issued prior to January 1, 1963, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(6) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1963, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1963, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(7) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner.

**Subd. 3a. Minimum standard of valuation for annuities and pure endowment contracts.** The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subdivision and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation method defined in subdivision 4 and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to January 1, 1986, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

(2) For individual annuity and pure endowment contracts issued on or after January 1, 1986, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and three and one-half percent interest.

(3) For all annuities and pure endowments purchased prior to January 1, 1986, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest.

(4) For all annuities and pure endowments purchased on or after January 1, 1986, under group annuity and pure endowment contracts, excluding any disability

and accidental death benefits in such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the commissioner, and three and one-half percent interest.

After April 11, 1974, any company may file with the commissioner a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1979, which shall be the operative date of this subdivision for such company, provided, a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1979.

**Subd. 4. Reserve valuation of life insurance and endowment benefits; modified premiums.** Reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value at the date of valuation of such future guaranteed benefits provided for by such policies over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b) as follows:

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value at the date of issue of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one year term premium for such benefits provided for in the first policy year.

Reserves according to the commissioners reserve valuation method for (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (2) annuity and pure endowment contracts, (3) disability and accidental death benefits in all policies and contracts, and (4) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of the preceding paragraph, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

**Subd. 5. Minimum aggregate reserves.** In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of Laws 1947, Chapter 182, be less than the aggregate reserves calculated in accordance with the method set forth in subdivision 4 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

**Subd. 6. Calculation of reserves.** (1) Reserves for all policies and contracts issued prior to the operative date of Laws 1947, Chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(2) Reserves for any category of policies, contracts or benefits as established by the commissioner, issued on or after the operative date of Laws 1947, Chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein. Reserves for participating life insurance policies issued on or after the operative date of Laws 1947, Chapter 182, may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits

by more than one-half percent the company issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve.

(3) Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

Subd. 7. **Deficiency reserves.** If the gross premium charged by any life insurance company on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium paying period.

[1967 c 395 art 2 s 25; 1974 c 433 s 3, 4]

#### PROVISIONS AS TO DIVIDENDS

**61A.26 DIVIDENDS.** Subdivision 1. **Annual apportionment and accounting of surplus.** Every life insurance company doing business in this state conducted on the mutual plan or in which policyholders are entitled to share in the profits or surplus shall make an annual apportionment and accounting of divisible surplus to each policyholder, beginning not later than the end of the third policy year, on all participating policies hereafter issued; and each such policyholder shall be entitled to and be credited with or paid, in the manner hereinafter provided, such a portion of the entire divisible surplus as has been contributed thereto by his policy.

Subd. 2. **Policyholder to choose.** Every policyholder shall, on all participating policies hereafter issued, be permitted, after his policy has been in force five years, annually, to select the manner and method of the application of the surplus to be annually apportioned to his policy from among those set forth in the policy. All apportioned surplus not actually paid over to the insured, or applied in the reduction of current or future premiums or in the purchase of paid-up insurance or pure endowment additions, shall be credited to the insured and carried as an actual liability and be paid at the maturity of the policy.

Subd. 3. **Waiver prohibited.** No agreement between the company and the policyholder or applicant for insurance shall be held to waive any of the provisions of subdivisions 1 and 2.

Subd. 4. **Policies issued prior to January 1, 1908.** Every life insurance company doing business in this state conducted on the mutual plan, or in which policyholders are entitled to share in the profits or surplus, shall, on all policies of life insurance issued prior to January 1, 1908, under the conditions of which the distribution of surplus is deferred to a fixed or specified time, and contingent upon the policy being in force and the insured living at that time, annually ascertain the amount of surplus to which all such policies as a separate class are entitled, and shall annually apportion to such policies as a class the amount of surplus so ascertained, and carry the amount of such apportioned surplus, plus the actual interest earnings and accretions of such fund, as a distinct and separate liability to such class of policies on and for which the same was accumulated, and no company or any of its officers shall be permitted to use any part of such apportioned surplus fund for any purpose other than the express purpose for which the same was accumulated. This subdivision shall not apply to industrial policies.

Subd. 5. **Required policy provision.** The required policy provision is contained in section 61A.03(6).

[1967 c 395 art 2 s 26]

#### CONTINGENCY RESERVE

**61A.27 CONTINGENCY RESERVE; LIMITATIONS.** Any life insurance company doing business in this state may accumulate and maintain, in addition to the capital and surplus contributed by its stockholders, and in addition to an amount equal to the net values of its policies, computed according to the laws of the juris-

diction under which it is organized, a contingency reserve not exceeding the following respective percentages of these net values: When the net values are less than \$100,000, 20 percent thereof, or the sum of \$10,000, whichever is the greater; when the net values are greater than \$100,000, the percentage thereof measuring the contingency reserve shall decrease one-half of one percent for each \$100,000 of the net values up to \$1,000,000; when the net values are greater than \$1,000,000, but do not exceed \$25,000,000, the contingency reserve shall not exceed 15 percent thereof; when the net values are greater than \$25,000,000, but do not exceed \$150,000,000, the contingency reserve shall not exceed 12½ percent thereof; when the net values are greater than \$150,000,000, the contingency reserve shall not exceed ten percent thereof; provided, that as the net values of these policies increase and the maximum percentage measuring the contingency reserve decreases, the corporation may maintain the contingency reserve already accumulated hereunder, although for the time being it may exceed the maximum percentage herein prescribed, but may not add to the contingency reserve when the addition will bring it beyond the maximum percentage. For cause shown, the commissioner may, at any time and from time to time, permit any corporation to accumulate and maintain a contingency reserve in excess of the limit above mentioned for a prescribed period, not exceeding one year under any one permission, by filing in his office a decision stating his reasons therefor and causing the same to be published in his next annual report. This section shall not apply to any company doing exclusively a non-participating business.

[1967 c 395 art 2 s 27]

#### INVESTMENTS

**61A.28 DOMESTIC COMPANIES, INVESTMENTS.** Subdivision 1. **Funds to be invested.** The capital, surplus and other funds of every domestic life insurance company, whether incorporated by special act or under the general law (in addition to investments in real estate as otherwise permitted by law) may be invested only in one or more of the following kinds of securities or property:

Subd. 2. **Government obligations.** Bonds or other obligations of, or bonds or other obligations insured or guaranteed by, (a) the United States or any state thereof; (b) the Dominion of Canada or any province thereof; (c) any county, city, town, organized school district, municipality, or other civil or political subdivision of this state, or of any state of the United States or of any province of the Dominion of Canada; (d) any agency or instrumentality of the foregoing, including but not limited to, debentures issued by the federal housing administrator, obligations of national mortgage associations; (e) obligations payable in United States dollars issued or fully guaranteed by the International Bank for Reconstruction and Development not exceeding in aggregate face amount five percent of the total admitted assets of such life insurance company; (f) obligations payable in United States dollars issued or fully guaranteed by the Inter-American Development Bank not exceeding in aggregate face amount five percent of the total admitted assets of such life insurance company; (g) obligations payable in United States dollars issued or fully guaranteed by the Asian Development Bank not exceeding in aggregate face amount five percent of the total admitted assets of such life insurance company; (h) if approved by the commissioner, obligations payable in United States dollars issued or fully guaranteed by any other United States government sponsored organization of which the United States is a member, not exceeding in aggregate face amount five percent of the total admitted assets of such life insurance company.

Subd. 3. **Notes or bonds secured by mortgage.** Notes or bonds secured by first mortgage, or trust deed in the nature thereof, on improved real estate in the United States, provided the amount of the loan secured thereby is not in excess of 66½ percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is to be used for commercial purposes, and interest at least annually over a period of not to exceed 35 years, the amount of the loan shall not exceed (a) 75 percent of the market value of the real estate at the time of the loan; (b) 80 percent of the market value of the real estate at the time of the loan if such real estate is to be used for commercial purposes; or (c) 90 percent of the market value of the real estate at the time of the loan, if (1) the real estate is used for commercial purposes, and (2) the loan is additionally secured by an assignment of lease or leases, and (3) the lessee or lessees under the



lease or leases, or a guarantor or guarantors of the lessee's obligations, is a corporation whose obligations would qualify as an investment under subdivision 6 (f), and (4) the rents payable during the primary term of the lease or leases are sufficient to amortize at least 60 percent of the loan. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or such other mortgage insurer as may be approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event shall the loan exceed the market value of the property. No improvement shall be included in estimating the market value of such real estate unless the same shall be insured against fire by policies payable to and held by the security holder or a trustee for its benefit. Also notes or bonds secured by first mortgage, or trust deed in the nature thereof, upon leasehold estates in improved real property where at the date of investment the ground lease shall have an unexpired term of at least five years longer than the term of the loan secured thereby, and where the leasehold estate is unencumbered except by the lien reserved in the lease for the payment of rentals and the observance of the other covenants, terms and conditions of the lease and where the mortgagee, upon default, is entitled to be subrogated to, or to exercise, all the rights and to perform all the covenants of the lessee, provided that no loan on such leasehold estate shall exceed, (a) 75 percent of the market value thereof at the time of such loan, or (b) 80 percent of the market value thereof at the time of the loan if such real property is to be used for commercial purposes, and the loan must be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is used for commercial purposes, and interest at least annually over a period of not to exceed 35 years and the market value thereof shall be shown by the sworn certificate of a competent appraiser. In calculating the ratio of the amount of the loan to the value of the leasehold estate, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or such other mortgage insurer as may be approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event shall the loan exceed the market value of the leasehold estate. Also notes or bonds secured by first mortgage, or trust deed in the nature thereof, which the United States or any agency or instrumentality thereof or such other mortgage insurer as may be approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee. Also notes or bonds secured by first mortgage, or trust deed in the nature thereof, on improved real estate in the Dominion of Canada provided the amount of the loan is not in excess of 66 $\frac{2}{3}$  percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is used for commercial purposes, and interest at least annually over a period of not to exceed 35 years, the amount of the loan shall not exceed, (a) 75 percent of the market value of the real estate at the time of the loan, or (b) 80 percent of the market value of the real estate at the time of the loan if such real estate is to be used for commercial purposes. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the Dominion of Canada or any agency or instrumentality thereof has insured or guaranteed or made a commitment to insure or guarantee; provided in no event shall the loan exceed the market value of the property. Also notes or bonds secured by first mortgage, or trust deed in the nature thereof, on real estate in the United States which may be unimproved provided there exists a definite plan of development for commercial purposes within not more than five years where the amount of the loan does not exceed 80 percent of the market value of the unimproved real estate at the time of the loan and the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan, and interest at least annually over a period of not to exceed 35 years. Also notes or bonds secured by second mortgage or second trust deed in the nature thereof, on improved or unimproved real estate used, or to be used, for commercial purposes, provided that if unimproved real estate there exists a definite plan of development within not more than five years, in the United States or the Dominion of Canada under the following conditions: (a) the amount of the note or bond is equal to the sum of the company's loan and the then outstanding indebtedness under the first mortgage or first trust deed; and (b) the company has control over the payments under the first mortgage or first trust deed indebtedness; and (c) the total amount of the note or bond shall not exceed 66 $\frac{2}{3}$  percent of the market

value of the real estate at the date of the loan or, when the note or bond is to be fully amortized by installment payments of principal, beginning not more than five years from the date of the note or bond, and interest at least annually over a period of not to exceed 35 years, the amount of the note or bond shall not exceed 80 percent of the market value of the real estate at the date of the loan.

**Subd. 4. Public utility obligations.** Bonds or obligations of railway companies, street railway companies, and other public utility corporations incorporated under the laws of this state, the United States or any state thereof, or the Dominion of Canada, or any province thereof, which shall not be in default as to the principal or interest on any outstanding issue of bonds; the debentures of farm mortgage debenture companies organized under the laws of this state, and federal farm loan bonds.

**Subd. 5. Certificate of deposit.** Certificates of deposit of banks organized under the laws of the United States or any state thereof; provided, that not more than five percent of the admitted assets of the company shall be invested in these certificates of deposit; provided, however, that such investment of any company with admitted assets of less than one million dollars may be made to the extent of ten percent of the admitted assets, where the amount invested in such certificates of deposit in any bank does not exceed the amount insured by the Federal Deposit Insurance Corporation.

**Subd. 6. Stocks, obligations, and other investments.** Stocks, warrants or options to purchase stocks, bonds, notes, evidences of indebtedness, or other investments as set forth in this subdivision, provided that no investment may be made which will increase the aggregate investment in all common stocks under clauses (a) and (b) beyond ten percent of admitted assets as of the end of the preceding calendar year. In applying the standards prescribed in clauses (b), (c), and (d), (f) and (g) of this subdivision to the stocks, bonds, notes, evidences of indebtedness, or other obligations of a corporation which in the qualifying period preceding purchase of such stocks, bonds, notes, evidences of indebtedness, or other obligations acquired its property or a substantial part thereof through consolidation, merger, or purchase, the earnings of the several predecessors or constituent corporations shall be consolidated. In applying any percentage limitations of this subdivision the value of the stock, or warrant or option to purchase stock, shall be based on cost.

(a) Stocks of banks, insurance companies, and municipal corporations organized under the laws of the United States or any state thereof; but not more than seven percent of the admitted assets of any domestic life insurance company may be invested in stocks of other insurance corporations and banks.

(b) Common stocks of any corporation not designated in clause (a) of this subdivision, organized under the laws of the United States or any state thereof, or of the Dominion of Canada or any province thereof, if the net earnings of such corporation before fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, shall have averaged not less than one and one-fourth times its average annual fixed charges applicable to such period, and, if the corporation has been in existence for a period of two or more years, such net earnings for either of the last two years of such period shall have been not less than one and one-fourth times its fixed charges for such year; provided that if said corporation shall have been in existence for less than five years its net worth shall be not less than \$1,000,000. The company shall not invest in more than 10 percent of the common stock of any one such corporation.

(c) Preferred stock of, or common or preferred stock guaranteed as to dividends by, any corporation not designated in clause (a) of this subdivision, organized under the laws of the United States or any state thereof, or of the Dominion of Canada or any province thereof, under the following conditions: (1) No investment shall be made under this clause in a stock upon which any dividend is in arrears or has been in arrears for an aggregate of 90 days within the immediately preceding three-year period; and (2) the aggregate investment in stocks under this clause and in common stocks under clauses (a) and (b) shall not exceed 15 percent of the life insurance company's admitted assets, provided that no more than 10 percent of the company's admitted assets shall be invested in common stocks under clauses (a) and (b); and (3) if the net earnings of such corporation before fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, shall have averaged not less than one and one-fourth times its average annual fixed charges applicable to such period, and, if the corporation has

been in existence for a period of two or more years, such net earnings for either of the last two years of such period shall have been not less than one and one-fourth times its fixed charges for such year; provided that if said corporation shall have been in existence for less than five years its net worth shall be not less than \$1,000,000.

(d) Warrants or options to purchase stock of any corporation organized under the laws of the United States or any state thereof, or of the Dominion of Canada or any province thereof, if the stock of such corporation, at the time of the acquisition of such warrant or option to purchase, would qualify as an investment under clause (a), (b), or (c), whichever is applicable. A domestic life insurance company shall not invest more than one percent of its assets in warrants or options to purchase stock. Any stock actually acquired through the exercise of a warrant or option to purchase shall be included in clause (a), (b), or (c), whichever is applicable, whether or not such stock then meets the standards prescribed in such clause.

(e) The securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the federal Investment Company Act of 1940 as from time to time amended, provided that the aggregate of such investments, determined at cost, by the life insurance company shall not exceed five percent of its admitted assets, and such investments may be made without regard to the percentage limitations applicable to stocks, and warrants or options to purchase stock. In addition, the company may transfer assets into one or more of its separate accounts for the purpose of establishing, or supporting its contractual obligations under, such accounts in accordance with the provisions of sections 61A.13 to 61A.21.

(f) Bonds, notes, debentures, or other evidences of indebtedness, issued or guaranteed by a corporation, other than a corporation designated in subdivision 4, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, if the net earnings of such corporation before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, shall have averaged not less than one and one-fourth times its average annual fixed charges applicable to such period, and, if the corporation has been in existence for a period of two or more years, such net earnings for either of the last two years of such period shall have been not less than one and one-fourth times its fixed charges for such year; provided that if said corporation shall have been in existence for less than five years its net worth shall be not less than \$1,000,000. No investment shall be made under this clause upon which any interest obligation is in default or which has been in default for an aggregate of 90 days within the immediately preceding three-year period.

(g) Obligations for the payment of money under the following conditions: (1) The obligation shall be secured, either solely or in conjunction with other security, by an assignment of a lease or leases on property, real or personal; and (2) such lease or leases shall be nonterminable by the lessee or lessees upon foreclosure of any lien upon the leased property; and (3) the rents payable under such lease or leases shall be sufficient to amortize at least 90 percent of the obligation during the primary term of the lease; and (4) the lessee or lessees under the lease or leases, or a corporation which has assumed or guaranteed any lessee's performance thereunder, shall be a corporation whose obligations would qualify as an investment under clause (f).

**Subd. 7. Transportation equipment obligations.** Equipment trust obligations or certificates which are adequately secured or other adequately secured instruments evidencing an interest in transportation equipment purchased, leased, or under contract for purchase or lease by a corporation incorporated in the United States or in Canada or by a receiver or trustee of such corporation and a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such transportation equipment.

**Subd. 8. Promissory notes secured by warehouse receipts.** Promissory notes maturing within six months, secured by the pledge of registered terminal warehouse receipts issued against grain deposited in terminal warehouses, as defined in section 233.01. At the time of investing in these notes, the market value of the grain shall exceed the indebtedness secured thereby, and the note or pledge agreement shall provide that the holder may call for additional like security or sell the grain without notice upon depreciation of the security; the insurance company may accept, in lieu of the deposit with it of the warehouse receipts, a

trustee certificate issued by any national or state bank at a terminal point, certifying that the warehouse receipts have been deposited with it and are held as security for the notes; and the amount invested in the securities mentioned in this subdivision shall not, at any time, exceed 25 percent of the unassigned surplus and capital of the company.

**Subd. 9. Obligations of trustees and receivers.** Certificates, notes, or other obligations issued by trustees or receivers of any institution created or existing under the laws of the United States or of any state, district, or territory thereof, which, or the assets of which, are being administered under the direction of any court having jurisdiction if such obligation is adequately secured as to principal and interest; the amount invested in the securities mentioned in this subdivision shall not, at any time, exceed 25 percent of the unassigned surplus and capital of the company.

**Subd. 10. Real estate sales contracts.** Real estate sales contracts to which the company is not an original party, involving unencumbered real property situated in the United States, having a value of at least 50 percent more than the amount of the unpaid balance of the contract, same to be assigned or otherwise transferred to the company or to a trustee or nominee of its choosing. No improvement shall be included in estimating the value unless the same shall be insured against fire by policies payable to and held by the company or a trustee or nominee for its benefit. The foregoing provisions of this subdivision shall not apply to real estate sales contracts to which the company is an original party and shall not prohibit the company from holding such contracts as an investment.

**Subd. 11. Policy loans.** Loans on the security of insurance policies issued by itself to an amount not exceeding the loan value thereof; and loans on the pledge of any of the securities eligible for investment under the provisions of subdivisions 2 to 10, but not exceeding 95 percent of the value of securities enumerated in subdivisions 2, 3, and 4 and 80 percent of the value of stocks and other securities; in case of securities enumerated in subdivisions 3, 5, and 10 "value" means principal amount unpaid thereon and in case of other securities market value thereof; in case of securities enumerated in subdivisions 3 and 10 the pledge agreement shall require principal payments by the pledgor at least equal to and concurrent with principal payments on the pledged security; in loans authorized by this subdivision, except as otherwise provided by law in regard to policy loans, the company shall reserve the right at any time to declare the indebtedness due and payable when in excess of such proportions of value or, in case of pledge of securities other than those enumerated in subdivisions 3 and 10, upon depreciation of security.

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

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

(2) Fifty percent of the amount by which its capital and surplus as of the end of the preceding calendar year exceeds \$675,000. Provided, however, that a company's total investment under section 61A.28 in the common stock of any corporation, other than the stock of the types of corporations specified in subdivision 6(a), shall not exceed ten percent of the common stock of the corporation. Provided, further, that no investment may be made under the authority of this clause (2) or clause (1) by a company that has not completed five years of actual operation since the date of its first certificate of authority.

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

[1967 c 395 art 2 s 28; 1969 c 494 s 12-16; 1971 c 816 s 1, 2; 1973 c 123 art 5 s 7; 1974 c 64 s 6]

**61A.281 INVESTMENTS; SUBSIDIARIES.** Subdivision 1. **Special purpose corporations.** A domestic life insurance company may organize and hold, or acquire and hold, more than 50 percent of the capital stock of any corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, or if approved by the commissioner, elsewhere, which is one or more of the following: (1) a corporation providing investment advisory, management or sales services to an investment company or to an insurance company; or (2) a data processing or computer service corporation; or (3) a real property holding, developing, managing or leasing corporation; or (4) a mortgage loan corporation engaged in the business of making, originating, purchasing, or otherwise acquiring or investing in, and servicing or selling or otherwise disposing of loans secured by mortgages on real property; or (5) a corporation whose business is owning and managing or leasing personal property; or (6) a corporation other than a bank or an insurance company, whose business has been approved by the commissioner as complementary or supplementary to the business of a domestic life insurance company. Provided, however, that such percentage of stock may, with the approval of the commissioner, be 50 percent or less. The limits contained in the other investment sections of the insurance code shall not apply to such holdings, provided that the aggregate cost of the investments made under this subdivision shall not exceed five percent of the domestic life insurance company's admitted assets.

Subd. 2. **General purpose corporations.** A domestic life insurance company may organize and hold, or acquire and hold, more than 50 percent of the capital stock of any corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, or if approved by the commissioner, elsewhere, whether or not of the type of corporation enumerated in subdivision 1 or approved by the commissioner under subdivision 1. The limits contained in the other investment sections of Minnesota Statutes relating to insurance shall not apply to such holdings, provided that the aggregate cost of the investments made under authority of this subdivision shall not exceed ten percent of the capital and surplus of the domestic life insurance company.

Subd. 3. **Regulations.** The commissioner may issue such reasonable rules and regulations as may be appropriate to carry out the purposes of this section.

Subd. 4. **Other corporations acquired or organized, activities.** A domestic life insurance company may organize or acquire a corporation domiciled in the United States and hold the capital stock thereof, provided that it shall continuously own more than 50 percent of such capital stock. The corporation so organized or acquired shall limit its activities to the investing of its assets in the same corporations, subject to the same ownership requirements, in which the insurance company may directly invest under subdivisions 1 and 2 of this section; provided that the sum of the total cost of the investments made by both it and the insurance company in corporations authorized under said subdivision 1 or said subdivision 2 shall not exceed the dollar amount which would have been applicable had the insurance company directly made such investments. The limits contained in the other investment sections of the insurance code shall not apply to any investment made by the insurance company under this subdivision, provided that the aggregate cost of the investments made by the insurance company hereunder and under said subdivisions 1 and 2 shall not exceed the sum of five percent of the insurance company's admitted assets and ten percent of the insurance company's capital and surplus.

[1969 c 494 s 17; 1971 c 816 s 3-5]

**61A.282 INVESTMENTS IN NAME OF COMPANY OR NOMINEE AND PROHIBITIONS.** All of the funds of a domestic life insurance company including funds held in separate account shall be held in its corporate name or its nominee name, except that investments may be held under the name of a nominee of a bank or trust company if the securities are kept under a custodial arrangement with such bank or trust company. Such custodial arrangements shall be evidenced by an agreement and shall meet the following requirements:

- (1) The securities shall be held by a bank or trust company licensed by the United States or any state thereof; and
- (2) the agreement shall provide that the securities so deposited shall at all times

be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the company making the deposit. No officer, director, or member of any committee passing on investments shall borrow any of such funds, or become, directly or indirectly, liable as a surety or endorser for or on account of loans thereof to others, or receive to his own use any fee, brokerage, commission, gift or other consideration for, or on account of, any loan made by or on behalf of the company.

[1969 c 494 s 18]

**61A.283 ADMITTED ASSETS.** For the purpose of applying any investment limitation based on the amount of a domestic life insurance company's admitted assets, the term "admitted assets" shall mean such assets as shown by the company's annual statement, required by section 60A.13, as of the December 31 immediately preceding the date the company acquires the investment, with an adjustment in such admitted asset figure to exclude amounts which on such December 31 are allocated to separate accounts; and the value of stocks and warrants and options to purchase stocks owned by the company on such December 31 shall be based on cost. For other purposes the term "admitted assets" shall mean such assets as shown by the company's annual statement on such December 31, valued in accordance with the valuation regulations prescribed by the National Association of Insurance Commissioners.

[1969 c 494 s 19]

**61A.29 INVESTMENTS; AUTHORIZATION; FOREIGN INVESTMENTS.** Subdivision 1. **Authorization.** No investment or loan, except policy loans, shall be made by any domestic life insurance company unless the same shall have been authorized or be approved by the board of directors or by a committee of directors, officers or employees of the company designated by the board charged with the duty of supervising the investment or loan, and in either case accurate records of all authorizations and approvals shall be maintained.

Subd. 2. **Foreign investments.** Any domestic life insurance company doing business in a foreign country may invest the funds required to meet its obligations incurred in such foreign country in conformity to the laws thereof in the kind of securities of such foreign country in which the company is authorized to invest in this state.

[1967 c 395 art 2 s 29; 1969 c 494 s 20]

**61A.30 INVESTMENTS; JOINT.** No domestic life insurance company shall subscribe to or participate in any underwriting of the purchase or sale of securities or property, or enter into any transactions for such purchase or sale on account of the company jointly with any other person, firm, or corporation; nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be, at all times, within the control of its board of directors. Nothing contained herein shall be construed to invalidate or prohibit an agreement by two or more investors to join and share in the purchase of investments for bona fide investment purposes, provided that, in such investments secured by mortgage or deed of trust, provisions be made for a method of resolving any matters relating thereto as to which the investors are not in agreement.

[1967 c 395 art 2 s 30]

**61A.31 REAL ESTATE HOLDINGS.** Subdivision 1. **Purposes.** Except as provided in subdivisions 2, 3, and 4, every domestic life insurance company may acquire, hold and convey real property only for the following purposes and in the following manner:

(1) Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due;

(2) Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

(3) Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for such debts.

All the real property specified in clauses (1), (2), and (3), which shall not be necessary for its accommodation in the convenient transaction of its business, shall be sold and disposed of within five years after the company shall have acquired title to the same, or within five years after the same shall have ceased to be necessary

for the accommodation of its business, and it shall not hold this property for a longer period unless it shall procure a certificate from the commissioner of insurance that its interest will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to such time as the commissioner shall direct in the certificate.

Subd. 2. **Building projects.** In order to promote and supplement public and private efforts to provide an adequate supply of decent, safe, and sanitary dwelling accommodations for persons of low and moderate income; to relieve unemployment; to alleviate the shortage of rental residences; and to assist in relieving the emergency in the housing situation in this country through investment of funds, any life insurance company may purchase or lease from any owner or owners (including states and political subdivisions thereof), real property in any state in which such company is licensed to transact the business of life insurance; and on any real property so acquired or on real property so located and acquired otherwise in the conduct of its business, such company may erect apartment, or other dwelling houses, not including hotels, but including accommodations for retail stores, shops, offices, and other community services reasonably incident to such projects; or, to provide such housing or accommodations, may construct, reconstruct, improve, or remove any buildings or other improvements thereon. Such company may thereafter own, improve, maintain, manage, collect or receive income from, sell, lease, or convey any such real property and the improvements thereon. The aggregate investment by any such domestic life insurance company in all such projects, including the cost of all real property so purchased or leased and the cost of all improvements to be made upon such real property and upon real property otherwise acquired, shall not, at the date of purchase or other acquisition of such real property, exceed ten percent of the total admitted assets of such company on the last day of the previous calendar year.

Subd. 3. **Acquisition of property.** Any domestic life insurance company may:

(a) acquire real property in the United States or any state thereof, or in the Dominion of Canada or any province thereof, as an investment for the production of income, and hold, improve or otherwise develop, and lease, sell, and convey the same, subject to the following conditions and limitations: (1) The cost of each parcel of real property acquired pursuant to this clause, including the estimated cost to the company of the improvement or development thereof, when added to the book value of all other real property then held by it pursuant to this clause, shall not exceed five percent of its admitted assets as of the end of the preceding calendar year, and (2) the cost of each parcel of real property acquired pursuant to this clause, including the estimated costs to the company of the improvement or development thereof, shall not exceed one percent of its admitted assets as of the end of the preceding calendar year and (3) the prior approval of the commissioner shall be required if the property is to be used primarily for recreational, amusement, hotel, or club purposes.

(b) acquire real or personal property in the United States or any state thereof, or in the Dominion of Canada or any province thereof, under lease or leases or commitment for lease or leases provided that: (1) The lessee, or at least one of the lessees, or a guarantor, or at least one of the guarantors, of the lease is a corporation with a net worth of \$1,000,000 or more; and (2) the lease provides for rent sufficient to amortize the investment with interest over the primary term of the lease or 40 years, whichever is less; and (3) in no event shall the total investment in real estate under this clause exceed 10 percent of the domestic life insurance company's admitted assets, but a domestic life insurance company shall be permitted to invest in real estate under this clause without regard to the limitations of clause (a) above; and (4) the cost of each parcel of real property acquired under this clause shall not exceed one percent of the domestic life insurance company's admitted assets; and (5) in no event shall the total investment in personal property under this clause exceed three percent of the domestic life insurance company's admitted assets.

(c) not acquire real property under clauses (a) and (b) if the property is to be used primarily for agricultural, horticultural, ranch, mining, or church purposes.

All real property acquired or held under this subdivision shall be carried at a value equal to the lesser of (1) cost plus the cost of capitalized improvements, less normal depreciation, or (2) market value.

Subd. 4. **Convenience and accommodation of business.** The real estate acquired or held by any domestic life insurance company for the convenience and accommodation of its business shall not exceed in value 25 percent of its cash and invested assets, not including real estate acquired or held for the convenience and accommoda-

tion of its business. Any domestic life insurance company, after having secured approval of the commissioner of insurance therefor, may also acquire and hold real estate for the sole purpose of providing necessary homes and living quarters for its employees. Such real estate shall never exceed three percent of the company's cash assets as shown by its annual statement last filed with the commissioner of insurance. All real property which shall not be necessary for its accommodation in the convenient transaction of its business, or the housing of its employees, shall be sold and disposed of within five years after the same shall have ceased to be necessary for the accommodation of its business, or the housing of its employees, and it shall not hold this property for a longer period unless, (a) it shall procure a certificate from the commissioner of insurance that its interest will suffer materially by the forced sale thereof, in which event the time for sale may be extended to such time as the commissioner shall direct in the certificate, or (b) such real property qualifies as an investment under the terms of subdivision 3 in which event the company may, at its option consider such real property as held under the provisions of said subdivision, subject to the conditions, standards, or other limitations of said subdivision as though it had been originally acquired thereunder.

[1967 c 395 art 2 s 31; 1969 c 494 s 21-24]

#### DOMESTIC MUTUAL LIFE COMPANIES; ADDITIONAL PROVISIONS

**61A.32 DOMESTIC MUTUAL AND STOCK AND MUTUAL COMPANIES; VOTING RIGHTS OF MEMBERS.** Every person insured by a domestic mutual life insurance company, and every participating policyholder of a domestic stock and mutual life insurance company as defined in sections 61A.33 to 61A.36, shall be a member, entitled to one vote and one vote additional for each \$1,000 of insurance in excess of the first \$1,000; provided, that no member shall be entitled to more than 100 votes; and, provided, further, that in the case of group insurance on employees such group shall be deemed to be a single member and the employer shall be deemed to be such member for the purpose of voting, having not to exceed 100 votes, provided, that in cases where the employees pay all or any part of the premium, either directly or by payroll deductions, the employees shall be allowed to choose their representative, who shall exercise a voting power in proportion to the percentage of premium paid by such employees. Every member shall be notified of its annual meetings by a written notice mailed to his address, or by an imprint on the back of his policy, premium notice, receipt or certificate of renewal, as follows:

"The insured is hereby notified that by virtue of his policy he is a member of the ..... Insurance Company, and that the annual meetings of said company are held at its home office on the ..... day of ..... in each year, at ..... o'clock."

The blanks shall be duly filled in print. Any such member may vote by proxy by filing written proxy appointment with the secretary of the company at its home office at least five days before the first meeting at which it is to be used. Such proxy appointment may be for a specified period of time or may provide that it will be in effect until revoked. A proxy may be revoked by a member at any time by written notice to the secretary of the company or by executing a new proxy appointment and filing it as required herein: provided, however, that any member may always appear personally and exercise his rights as a member at any meeting of the company.

A domestic mutual life insurance company may by its articles of incorporation or bylaws provide for a representative system of voting in any meeting of members. The articles or bylaws may provide for the selection of representatives from districts as therein specified, such representatives to represent approximately equal numbers of members with power to exercise all the voting powers, rights and privileges of the members they represent with the same force and effect as might be exercised by the members themselves. In such a representative system the votes cast by the representative shall be one vote for each member, notwithstanding the amount of insurance carried, and proxy voting shall not be permitted; provided, however, that any member may always appear personally and exercise his rights as a member of the company at any meeting of the membership.

[1967 c 395 art 2 s 32]



COMBINED STOCK AND MUTUAL COMPANIES;  
ADDITIONAL PROVISIONS

**61A.33 STOCK AND MUTUAL LIFE INSURANCE COMPANIES.** Insurance corporations for the transaction of the kinds of business authorized and permitted by section 60A.06, subdivision 1, clause (4), and subject to these provisions and limitations, may be formed having a capital stock, but which shall be controlled by the votes of both stockholders and participating policyholders. All such companies shall be known as stock and mutual companies. Corporations so formed shall have the right to make any contracts which insurance companies formed to transact the same kinds of business upon the stock plan or upon the mutual plan are authorized by law to make.

[1967 c 395 art 2 s 33]

**61A.34 APPLICATION.** All provisions of law relating to stock companies and all such provisions relating to mutual companies shall, so far as applicable, relate to and govern such stock and mutual companies and the rights of stockholders and members thereof.

[1967 c 395 art 2 s 34]

**61A.35 VOTING RIGHTS.** Unless otherwise provided in the certificate of incorporation or an amendment thereto adopted as provided by section 300.45 or by section 61A.36, each stockholder of a stock and mutual life insurance company shall, at all meetings, be entitled to one vote for each share of stock held by him and, except as otherwise provided by law, each holder of a policy entitled to participate in profits or savings shall be a member and, as such, shall be entitled to the number of votes to which he would be entitled in a mutual company.

[1967 c 395 art 2 s 35]

**61A.36 CONVERSION OF EXISTING COMPANIES; AMENDMENT OF CERTIFICATES OF INCORPORATION.** Any existing stock or mutual insurance company authorized to do the kinds of business referred to in section 61A.33 may amend its certificate of incorporation so as to become a stock and mutual company; provided, that no such amendment shall deprive any stockholder or member or policyholder of the right, at any and all meetings of stockholders and members or policyholders held thereafter, to cast as many votes for directors as are provided by the certificate of incorporation in force at the time of the adoption of such amendment, or by the law in force at such time. No such amendment shall be construed to change the identity of the corporation and it shall thereafter continue to be governed by the laws applicable thereto at the time of such amendment and as amended hereafter and not inconsistent with sections 61A.33 to 61A.36, as well as those relating to the added characteristic of capital stock or mutuality which it shall have acquired by such amendment.

The certificate of incorporation of a stock and mutual life insurance company may be amended in any respect therein provided by section 300.45, in the manner therein provided. The certificate of incorporation of a stock and mutual life insurance company may also be amended in respect to any matter which an original certificate of incorporation of a stock and mutual life insurance company might lawfully have contained, or so as to vest in its board of directors authority to make and alter bylaws subject to the power of the stockholders and members to change or repeal such bylaws, by the affirmative vote, at a regular meeting of stockholders and members or at a special meeting of stockholders and members called for that expressly stated purpose by the board of directors which shall first have proposed the amendment and declared it to be advisable, of (1) a majority of the total number of votes to which all stockholders are entitled, and (2) at least one-fifth of the total number of votes to which all participating policyholder members are entitled, provided the proposed amendment does not receive the negative vote of more than five percent of the total number of votes to which all participating policyholder members are entitled. The certificate of incorporation of a stock and mutual life insurance company may also be amended so as to increase or decrease its capital stock, or so as to change the number and par value of the shares of its capital stock, or so as to limit or deny to stockholders the pre-emptive right to subscribe to any or all shares of stock which may be authorized to be thereafter issued, by a majority vote of all its shares but without the vote of its members, at a regular meeting or at a special meeting of stockholders called for that expressly stated purpose by the board of directors which shall first have proposed the amendment

and declared it to be advisable and not adverse to or in conflict with the rights and interests of the members, provided that if the proposed amendment is to increase or decrease the capital stock or to change the number of the shares of the capital stock, the resolution specifying the proposed amendment and the certificate of amendment shall expressly provide (1) that the stockholders holding all its shares shall, at all meetings, be entitled to the same number of total votes after the amendment is adopted as they were entitled to before the amendment, and (2) that each stockholder shall, at all meetings, be entitled to a fraction of one vote for each share of stock held by him, the numerator of which fraction shall be the number of shares outstanding before the first such amendment is adopted and the denominator of which fraction shall be the number of shares outstanding. The resolution specifying the amendment shall be embraced in a certificate duly executed by its president and secretary, or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner prescribed for the execution, approval, filing, recording, and publishing of an original certificate of incorporation.

[1967 c 395 art 2 s 36]

**61A.37 DOMESTIC INSURANCE CORPORATIONS MAY BECOME MUTUAL CORPORATIONS.** Any domestic insurance corporation heretofore or hereafter incorporated for the transaction of the kinds of business authorized and permitted by section 60A.06, subdivision 1, clause (4), and having capital stock may become a mutual corporation and to that end may formulate and carry out a plan for the acquisition by it of its outstanding capital stock, and for the mutualization of such corporation, as follows:

(a) Such plan shall have been adopted by vote of a majority of the directors of such company.

(b) Such plan shall have been submitted to the commissioner of insurance and shall have been approved by him as conforming to the requirements of sections 61A.37 and 61A.38 and as not prejudicial to the policyholders of such company or to the insuring public.

(c) Such plan shall have been approved by a vote of stockholders representing a majority of the outstanding capital stock at a meeting of stockholders called for that purpose. Stockholders may vote in person or by proxy filed with the company at least five days before the meeting at which it is to be used. Notice of such meeting shall be given by mailing such notice from the home office of such company at least 30 days prior to such meeting in a sealed envelope, postage prepaid, directed to each stockholder at his address as shown on the stock records of the company.

(d) Such plan shall have been approved by a majority of the votes cast by policyholders (whether or not members) who vote at a meeting called for that purpose. Eligibility of policyholders, whether or not members of the company, and the number of votes to which each is entitled, shall be determined by the laws of Minnesota relating to the rights of members of domestic mutual life insurance companies to vote at company meetings. Policyholders may vote in person or by proxy filed with the company at least five days before the meeting at which it is to be used. Notice of such meeting shall be given by mailing such notice from the home office of such company at least 30 days prior to such meeting in a sealed envelope, postage prepaid, directed to each policyholder at his address as shown on the policy records of the company. Such meeting shall be conducted in such manner as may be provided for in such plan, with the approval of the commissioner. The commissioner shall supervise and direct the methods and procedure of said meeting and appoint an adequate number of inspectors to conduct the voting at said meeting, who shall have power to determine all questions concerning the verification of the ballots, the ascertaining of the validity thereof, the qualifications of the voters and the canvass of the vote. Such inspectors, or any one thereof designated by the commissioner, shall certify to the commissioner and to such company the result of such vote, and with respect thereto shall act under such rules as shall be prescribed by the commissioner. All necessary expenses incurred by the commissioner, or incurred with his approval by the inspectors appointed by him, shall be paid by such company upon the certificate of the commissioner.

(e) Approval of the plan by stockholders and policyholders as above provided may be given at a joint meeting thereof.

(f) Such plan may specify the purchase price to be paid by such company for

shares of its capital stock, and in such case the price so specified shall be adhered to. If such plan does not specify the price to be paid for such shares, such company shall first obtain the approval of the commissioner for every payment made for the acquisition of any shares of its capital stock.

(g) Such plan may authorize the board of directors of the company to provide for participation in the surplus of the company by holders of policies which do not by their terms provide for such participation or which provide for a limited participation only, and may include appropriate proceedings to confer upon policyholders the right to vote at meetings of the company. Policyholders upon whom the right to vote is so conferred shall have the same voting rights and shall be entitled to the same notice of annual meeting as members of domestic mutual life insurance companies.

(h) Before approving any such plan or any such payment, the commissioner shall be satisfied, by such investigation as he may make or such evidence as he may require, that such company, after deducting the aggregate sum appropriated by such plan for the acquisition of any part or all of its capital stock, and in the case of any payment not fixed by such plan and subject to approval as aforesaid, after deducting also the amount of such payment, will be possessed of admitted assets in an amount equal to the sum of (1) and (2) as follows:

(1) Its entire liabilities, including the net value of its outstanding contracts computed as provided by law, and (2) the contingency reserve deemed by the commissioner necessary to protect its policyholders and the insuring public, in view of the past experience of such company, the character of its assets, its present management and its probable future earnings.

The commissioner's action in refusing to give any approval required by this section shall be subject to review by any court of competent jurisdiction.

Such plan may be amended by vote of stockholders representing a majority of the outstanding capital stock and by a majority of the votes cast by policyholders who vote at the meeting, but in such case the plan shall not become effective until approved, as amended, by vote of a majority of the directors of such company and by the commissioner.

[1967 c 395 art 2 s 37]

**61A.38 MAY ACQUIRE CAPITAL STOCK.** In pursuance of any plan such company shall have power, and shall be privileged, to acquire any shares of its capital stock by gift, bequest, or purchase. Until all of the shares of its outstanding capital stock are acquired, any shares so acquired shall be taken and held in trust for all the policyholders of such company, as hereinafter provided, and shall be assigned and transferred on the books of the company to three trustees, who shall be named in such plan and shall be approved by the commissioner. All shares held by such trustees shall be deemed admitted assets of such company at their par value. Such trustees, who may be directors of the company, shall vote all shares so acquired and held by them at all corporate meetings in accordance with the majority vote of policyholders voting on any question before the meeting. When all of the outstanding capital stock of any such corporation shall have been acquired, the entire capital stock of such corporation shall be retired and canceled and thereupon such corporation shall be and become a mutual life insurance company without capital stock. The plan of conversion formulated pursuant to section 61A.37 shall provide for the method of filling vacancies among such trustees. Before undertaking any of the duties of his appointment each trustee shall file with the company a verified acceptance of his appointment and a declaration that he will faithfully discharge his duties as such trustee. All dividends and other sums received by such trustees on the shares of stock so acquired by them shall, after paying the necessary expenses of executing the trust, be immediately repaid to such company for the benefit of all who are or may become policyholders of such company and entitled to participate in the profits or savings thereof.

[1967 c 395 art 2 s 38]

#### COOPERATIVE COMPANIES; SPECIAL PROVISIONS

**61A.39 COOPERATIVE LIFE AND CASUALTY COMPANIES.** Every corporation, society, or association which issues a certificate or policy or makes an agreement with its members by which, upon the decease of a member, any money is to be paid to, or benefit conferred upon, the legal representatives or designated

beneficiaries of such member, or reaching a certain age, to pay any money or benefit to him, such money or benefit to be derived from voluntary donations, admission fees, dues, or assessments to be collected from its members or any class thereof, and which reserves the right to make any additional assessments, or without the consent of the certificate or policyholder to increase the premium named therein, shall be deemed to be engaged in the business of life insurance upon the cooperative or assessment plan. Every corporation which likewise agrees, in case of accident, sickness, or other physical disability, or reaching a certain age, to pay money or confer benefits likewise derived and issuing certificates or policies with similar conditions with reference to the payment of dues or assessments, shall be deemed to be engaged in the business of casualty insurance upon the cooperative or assessment plan, and shall, except as herein otherwise specified, be subject to the provisions of sections 61A.39 to 61A.42 and 61A.44 to 61A.50.

[1967 c 395 art 2 s 39]

**61A.40 QUALIFICATIONS FOR LICENSE; NUMBER OF MEMBERS.** No corporation not now authorized to transact business in this state shall be licensed to transact the business of life or casualty insurance, or both, upon the cooperative or assessment plan, until at least 300 persons eligible to membership therein have made individual applications, in writing, therefor; containing warranties of age, health, and other required conditions of membership, and shall have on deposit with the commissioner, as security for all its policyholders, stocks or bonds of this state or of the United States, or bonds of any of the municipalities of this state, or personal obligations secured by first mortgage on real estate within this state, worth, exclusive of buildings, the amount of the lien, and bearing interest of not less than three percent per annum, to an amount the actual market value of which, exclusive of interest, shall never be less than \$10,000; provided, that any such corporation which has heretofore procured and filed with the commissioner a part of the total number of applications required by law shall only be required to deposit securities of the market value of \$5,000; provided, such a corporation that confines its membership exclusively to the members of volunteer fire departments shall be required to have not less than 100 individual applications, in writing, from persons eligible to membership and the sum of at least \$1,000, which amount shall be liable only for death or indemnity claims made under its policy or membership certificate contracts.

[1967 c 395 art 2 s 40]

**61A.41 RESERVE FUND; RECIPROCAL PROVISIONS.** Every domestic cooperative life or casualty corporation, society or association, except fraternal beneficiary association, which issues a certificate or policy, or makes an agreement with its members, by which, upon the decease of a member, more than \$200 is to be paid to, or benefit conferred upon, the legal representatives or designated beneficiary of such member, shall set aside ten percent of its gross premium receipts or assessments each year, as a reserve, until the same, together with any reserve already accumulated, shall amount to the sum of \$25,000.

Every domestic cooperative or assessment company transacting the business of life and health and accident insurance, which does not issue health and accident policies providing indemnity for disability from accident or disease in excess of \$750 on account of any one accident or illness, nor issues policies providing indemnity for disability from accident or illness in excess of \$750 on account of any one accident or illness and death indemnity of more than \$200, shall set aside as a reserve ten percent of its gross premium receipts or assessments each year until the same, together with any reserve already accumulated, shall amount to \$2,000, and shall thereafter set aside as a reserve five percent of its gross premium receipts or assessments each year until the same, together with any reserve already accumulated, shall amount to \$25,000.

Every domestic cooperative or assessment life insurance corporation, society or association, which issues a certificate or policy, or makes an agreement with its members, by which, upon the decease of a member, a funeral benefit is to be paid or funeral service is to be furnished, not exceeding \$200 in amount or value, shall set aside ten percent of its gross premium receipts or assessments each year as a reserve, until the same, together with any reserve already accumulated, shall amount to the sum of \$5,000, which reserve fund, accumulated as herein provided, shall be deposited with the commissioner in accordance with section 60A.10, subdivision 4, for the benefit of all its policyholders.

This deposit may consist of securities of the class in which insurance companies are authorized to invest under the laws of this state, and the company depositing the same shall be entitled to the income derived from the securities. No foreign insurance company upon the cooperative or assessment plan shall be permitted to transact business in this state unless it makes the deposit hereinbefore required of domestic companies, except that where, by the laws of the state under which the foreign company is organized, it is permitted to, and actually does, maintain for the benefit of all its policyholders a deposit with some proper officer of that state of an amount equal to the deposit required by sections 61A.39 to 61A.42 and 61A.44 to 61A.50; the deposit with the other state shall be a sufficient compliance with the provisions of this section. No deposit of securities, other than that herein provided for, shall be required of any such cooperative or assessment company. Any company transacting the business of life insurance upon the cooperative or assessment plan, and creating and maintaining a greater reserve than herein provided for, may elect, by written stipulation, filed with the commissioner, to keep on deposit with the commissioner in accordance with section 60A.10, subdivision 4, its entire reserve and special benefit funds, other than mortuary funds; and thereafter the entire reserve and special benefit funds shall be deposited with the commissioner in accordance with section 60A.10, subdivision 4, in securities of like character and upon the same terms as provided herein for the deposit of the reserve required by this section.

[1967 c 395 art 2 s 41; 1974 c 425 s 5]

**61A.42 PAYMENTS; LIENS; ASSESSMENTS; POLICIES TO BE LABELED.** No cooperative or assessment life insurance company shall hereafter issue any policy in this state which does not provide for the payment of a fixed minimum sum, which may be increased each year the insurance remains in force, in the amounts to be provided in the policy. Any agreement or bylaw providing for the placing of a lien upon such policy, except for non-payment of premium or assessment, and any agreement or bylaw providing for the payment of a less sum than the minimum sum specified in the contract, because of the failure of the corporation to receive or collect the amount in the contract by assessment upon the surviving members, shall be void. Nothing in this section contained shall be so construed as to render any member liable for more than one assessment for each death occurring during his period of membership, unless otherwise specified in the policy. All policies issued by the company shall contain a title including the word "assessment" on the face and on the back of the policy correctly describing the same.

This section shall not apply to any existing domestic company until it has been in existence for four years.

[1967 c 395 art 2 s 42]

**61A.43 ACCUMULATIONS; AMENDMENT TO ARTICLES OR BYLAWS.** Any insurance company transacting the business of life or casualty insurance upon the cooperative or assessment plan under any law of this state may, upon so providing in its articles or bylaws, elect to ascertain and apportion to its outstanding policies or certificates the respective accumulations upon each such policy or certificate, and to carry to the credit of each such policy or certificate the future net premiums or assessments and the accretions thereto, less its equitable contribution to the death claims and other benefits, and that the premiums or assessments upon any such policy or certificate may, upon such credit becoming exhausted, be increased as may be necessary to meet its share of death claims and other benefits, and that the holder of any such policy or certificate may be granted extended or paid-up insurance or the right to convert into any other form of policy or insurance then being issued by such company and to have the credit on such former policy or certificate applied to such new policy or insurance. When making the ascertainment and apportionment, account shall be taken of the premiums or assessments theretofore paid and of the death claims and other benefits which should be borne by the policy or certificate, of the interest earnings and other accretions to the accumulated funds, and of other matters which should equitably

be taken into consideration for the purposes of the apportionment. Subject to such adjustment as shall be equitable, the experience of the company, or any table of mortality recognized for the purpose of insurance in any law of this state, may be used as a basis for the ascertainment and apportionment herein authorized; provided, that any company availing itself of the provisions of this section shall, in its articles or bylaws, specify the table of mortality and rate of interest which are to be the basis for the charges thereafter to be made to the policies or certificates aforesaid; and, provided, further, that when any table of mortality is specified in any policy that table shall be followed.

[1967 c 395 art 2 s 43]

**61A.44 LIMITATION ON EXPENSES; LIFE INSURANCE.** Every corporation, as described in section 61A.39, now or hereafter organized or admitted to transact the business of life insurance in this state, shall set aside and appropriate exclusively to its mortuary or benefit funds, including reserve or special benefit funds, not less than 65 percent of all premium receipts and all interest earnings thereon upon such life insurance policies that shall have been in force one year or more, and the entire amount of receipts upon post-mortem assessment certificates, except the expense dues and charges therein provided. No such funds heretofore or hereafter so appropriated to such mortuary or benefit fund, including reserve or special benefit funds, shall ever be used for the expense of conducting such business; provided, that every such corporation which issues a certificate or policy or makes an agreement with its members, by which, upon the decease of a member, a funeral benefit is to be paid, or funeral service is to be furnished, not exceeding \$200 in amount or value, and which pays no accident, disability, or other benefits, shall set aside and appropriate exclusively to its mortuary or benefit funds, including reserve or special benefit funds, not less than 60 percent of all premium receipts upon such insurance policies that shall have been in force one year or more, and the entire amount of receipts upon post-mortem assessment certificates, except the expense dues and charges therein provided. No such funds heretofore or hereafter so appropriated to such mortuary or benefit funds, including reserve or special benefit funds, shall ever be used for the expense of conducting such business.

The net accretions to the funds enumerated in this section derived from interest, rents, or other sources shall also be set aside and appropriated exclusively to the fund producing the net accretions.

[1967 c 395 art 2 s 44]

**61A.45 LIMITATION ON EXPENSES; COMPANIES WITH RESERVE DEPOSITS.** No company, as described in section 61A.39, transacting the business of casualty or health insurance in this state shall incur, lay out, or expend, in any one calendar year, as and for the expenses of conducting such business, more than its application or membership fees and 40 percent of its total premiums or assessments. When any such company shall have on deposit with the commissioner a reserve of \$25,000, as provided by law, then and thereafter the company may expend, in addition to the 40 percent, the interest earnings on the reserve fund and the interest on any additional surplus funds it may accumulate.

Any officer of any corporation violating, or consenting to the violation of, this section or section 61A.44 shall be guilty of a gross misdemeanor.

[1967 c 395 art 2 s 45]

**61A.46 NET RATES; RESERVE FUND; LIMITATION OF EXPENSES.** No corporation organized to transact the business of life insurance upon the cooperative or assessment plan, and no such corporation not already admitted to transact business in this state, shall be licensed to transact such life insurance business in this state unless it shall, by its charter, bylaws and policy or certificate contracts, provide for and actually charge and collect from its members, for and on account of the insurance furnished to them, net rates which are at least equal to the rates known as the national fraternal congress rates, with four percent interest. When any such corporation has adopted the use of a net rate not less than the national

fraternal congress table of mortality and interest at the rate of four percent, on the full preliminary term plan, and shall set aside the net premium to its mortuary or benefit funds, including reserve or special benefits, for the use and benefit of its members, such corporation shall, on all premiums or assessments collected from and after January 1, 1927, be exempt from the provisions of sections 61A.41 and 61A.44; but it shall keep on deposit, for the use and benefit of all its policyholders, an amount equal to the value of its individual policies, as shown by its annual statement each year, with the commissioner, until the same shall amount to the sum of \$25,000. The accretions to the various funds derived from interest, rents, or other sources, less expense incidental to investment supervision, shall also be set aside and appropriated to the fund producing the accretions. Gain from lapses, savings in mortality, surrenders, and changes shall revert to the expense fund. Policies issued by such corporation may contain a provision that in the event of default in premium payments, after premiums shall have been paid for three years, shall secure to the owner of the policy a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend additions thereto, specifying the mortality table and the rate of interest adopted for computing such reserve, less a sum not more than two and one-half percent of the amount insured by the policy, and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy; and that the policy may be surrendered to the company, at its home office, within one month from date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance, and shall stipulate that the company may defer payment for not more than six months after the application therefor is made. This provision shall not be required in term insurance of 20 years or less. Such corporation shall value its policies at the end of each calendar year and show in its annual statement as a reserve liability the amount of such valuation. If infantile insurance is written, it may be valued on the table known as Craig's extension below age ten. If any corporation, society or association operating the business of life or casualty insurance on the assessment plan under any law of this state shall reincorporate under section 61A.39 and in connection with such reincorporation shall provide in its articles or bylaws that this section shall not apply to any class or group of assessment policies in force at the time that such reincorporation becomes effective, then this section shall not apply to such policies; provided that such corporation, society or association shall, in all other operations and as to all other policies, be subject to the provisions of sections 61A.39 to 61A.42 and sections 61A.44 to 61A.50.

[1967 c 395 art 2 s 46]

**61A.47 REINSURANCE OR CONSOLIDATION.** Any corporation, association, or society organized or authorized to transact business under the provisions of sections 61A.39 to 61A.42 and 61A.44 to 61A.50 may, by contract of reinsurance, assume the risks of any other similar corporation, association, or society engaged in the business of life or casualty insurance, or both, only on the following conditions:

(1) That both the corporations, associations, or societies which propose to enter into the reinsurance contract, shall be, upon the date of reinsurance, duly authorized under the provisions of sections 61A.39 to 61A.42 and 61A.44 to 61A.50 to transact business in this state;

(2) That the contract of reinsurance shall have previously been submitted to the commissioner and the attorney general and received the approval of the commissioner duly endorsed thereon;

(3) That the corporation, association, or society, which proposes to reinsure and retire, shall have been thoroughly examined by the commissioner within six months of the date of the proposed consolidation or reinsurance; provided, that, in the judgment of the commissioner, the consolidation or reinsurance can in no way impair the solvency of the corporation, association, or society which proposes to reinsure and assume the business and affairs of the corporation, association, or society contemplating reinsurance and retirement;

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(4) That the contract of reinsurance shall have been approved by a majority vote of all the members of the corporation, association, or society, which proposes to reinsure and retire, present in person or by proxy, at any regular meeting thereof, or at any special meeting thereof called to consider the same; and, that a written or printed notice of the purpose of the corporation, association, or society to reinsure shall have been mailed to each of its members at least 30 days prior to the date fixed for the meeting.

When the members of any such corporation, association, or society shall have so voted to reinsure and retire, its officers and the officers of the corporation, association, or society which proposes to assume the risks and other obligations are hereby authorized to enter into and consummate the contract of reinsurance as submitted and approved and to do and perform all other acts necessary to the final and complete consolidation or reinsurance. The retiring corporation, association, or society shall turn over all its property, securities, moneys, and other assets to the corporation, association, or society reinsuring and assuming its obligations, to become the sole and absolute property thereof. The actual and reasonable expenses and costs incident to proceedings under the provisions of this section may be paid by the companies so consolidating or reinsuring, and an itemized and verified statement of these expenses, together with proper vouchers for each of the same, shall be filed with the commissioner. No officer of any such company, nor any employee of the state, shall receive any compensation, gratuity, employment, or other promise or thing of value, directly or indirectly, for in any matter aiding, promoting, or assisting in the consolidation or reinsurance. Any officer or director of any company which is a party to the agreement of reinsurance herein provided for, who shall receive any compensation or gratuity for aiding or promoting or consenting to the contract, shall be guilty of theft; and any other person guilty of wilfully violating, or consenting to the wilful violation of, the provisions of sections 61A.39 to 61A.42 and 61A.44 to 61A.50, shall be guilty of a gross misdemeanor.

[1967 c 395 art 2 s 47]

**61A.48 MAY CHANGE TO LEGAL RESERVE OR LEVEL PREMIUM COMPANIES.** Any corporation, association, or society, as described in section 61A.39, may, with the written consent of the commissioner, upon a majority vote of its governing body, amend its articles of incorporation and bylaws in such manner as to transform itself into a legal reserve or level premium insurance company and, upon so doing and upon procuring from the commissioner a certificate of authority, as provided by law, to transact business in this state as a legal reserve or level premium company, shall incur the obligations and enjoy the benefits thereof, the same as though originally thus incorporated, and this corporation, under its charter, as amended, shall be a continuation of the original corporation, and the officers thereof shall serve through their respective terms, as provided in the original charter, but their successors shall be elected and serve as in the amended articles provided; but the amendment or reincorporation shall not affect existing suits, rights, or contracts. Any corporation, association, or society so reincorporated to transact the business of life insurance, shall, unless a higher method of valuation be provided for in its policy, or certificates of membership previously written, value its assessment policies or certificates of membership previously written as yearly renewable term policies, according to the standard of valuation of life insurance policies prescribed by the laws of this state.

[1967 c 395 art 2 s 48]

**61A.49 EXEMPTION FROM TAXATION.** Section 60A.15 shall not apply to any corporation, association, or society engaged in the business of life insurance upon the cooperative or assessment plan, or to any such corporation, society, or association engaged in the business of casualty insurance upon the cooperative or assessment plan, as defined in section 61A.39.

[1967 c 395 art 2 s 49]

**61A.50 APPLICATION.** Section 60A.16, and all other laws and parts of laws,



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in so far as they may be inconsistent with sections 61A.39 to 61A.42 and 61A.44 to 61A.50, shall not apply to corporations transacting the business of life or casualty insurance solely upon the cooperative or assessment plan, as defined in sections 61A.39 to 61A.42 and 61A.44 to 61A.50.

[1967 c 395 art 2 s 50]

**61A.51 INSOLVENCY.** In case any cooperative or assessment life, endowment, or casualty insurance association or society is adjudged insolvent, the balance of its reserve fund, if any, after payment of claims and other indebtedness, shall be paid to the commissioner and by him paid into the state treasury.

[1967 c 395 art 2 s 51]

**61A.52 RESERVE REQUIRED.** No casualty company or association organized under the cooperative or assessment laws of this state not having a reserve of at least \$25,000 on deposit with the commissioner shall issue policies or contracts providing for the payment of endowments of any kind.

[1967 c 395 art 2 s 52]