

CHAPTER 79

COMPENSATION INSURANCE

79.01	Definitions.	79.26	Commissioner to adopt rules.
79.071	Rates; hearings.	79.27	Application.
79.072	Petition for rehearing.	79.28	Liability of insurers.
79.073	Judicial review.	79.29	Assessments.
79.074	Discrimination.	79.30	Subrogation upon insolvency.
79.075	Automatic adjustment of rates.	79.31	Rating association to be party in interest.
79.076	Rate revision order; effect.	79.32	Duties of rating association.
79.08	Commissioner may require survey.	79.33	Additional duties of the commissioner.
79.09	Classification of workers' compensation insurance.	79.34	Creation of reinsurance association.
79.095	Appointment of actuary.	79.35	Duties; responsibilities; powers.
79.10	Review of acts of insurers.	79.36	Additional powers.
79.11	Insurers shall be members of association.	79.37	Board of directors.
79.12	Organization of association.	79.38	Plan of operation.
79.13	Expense, how paid.	79.39	Applicability of chapter 79.
79.14	Representation.	79.40	Premium inclusion in ratemaking.
79.15	License; fee.	79.50	Purposes.
79.16	Annual statement.	79.51	Rules.
79.17	Association shall make classification.	79.52	Definitions.
79.171	Information.	79.53	Premium calculation.
79.18	Record; shall furnish information.	79.54	Competitive market presumption.
79.19	Insurers shall not discriminate.	79.55	Standards for rates.
79.20	Rates shall be filed.	79.56	Filing rates and rating information.
79.21	Rates to be uniform; exceptions.	79.57	Filing rates; noncompetitive market.
79.211	Certain premium determination practices.	79.58	Disapproval of rates or rating plans.
79.22	Duties of commissioner.	79.59	Insurers and data service organizations; prohibited activities.
79.221	Independent contractors; payroll determination.	79.60	Insurers; required and permitted activity.
79.23	Violations; penalties.	79.61	Data service organizations; required and permitted activity.
79.24	Insurers required to take certain risks; refusal to write.	79.62	Data service organizations; licensing, examination.
79.25	Commissioner to fix premium rates.	79.63	Assigned risk plan.
79.251	Administration of assigned risk plan.		

79.01 DEFINITIONS.

Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections 79.01 to 79.23, shall have the meanings ascribed to them.

Subd. 2. **Insurer.** The word "insurer" means any insurance carrier authorized by license issued by the commissioner of insurance to transact the business of workers' compensation insurance in this state and includes a political subdivision providing self insurance or establishing a pool under section 471.981, subdivision 3.

Subd. 3. **Insurance.** The word "insurance" means workers' compensation insurance and insurance covering any part of the liability of an employer exempted from insuring his liability for compensation, as provided in section 176.181 and includes a program of self insurance, self insurance revolving fund or pool established under section 471.981.

Subd. 4. [Repealed, 1969 c 9 s 10]

Subd. 5. **Commissioner.** The word "commissioner" means the commissioner of insurance.

Subd. 6. **Association.** "Association" or "rating association" means the Workers' Compensation Insurers Rating Association of Minnesota.

Subd. 7. **Interested party.** "Interested party" means any person or association acting on behalf of its members who is directly affected by a change in the schedule of rates and includes the staff of the insurance division.

Subd. 8. **Schedule of rates.** "Schedule of rates" means the rate level applicable to the various industry groupings or classes, including the risk classifications thereunder upon which the determination of workers' compensation premiums are

based, including but not limited to all systems for merit or experience rating, retrospective rating, and premium discounts.

History: 1921 c 85 s 1; 1931 c 353 s 1; 1957 c 508 s 1; 1969 c 9 s 8; 1973 c 577 s 1.2; 1975 c 359 s 23; Ex1979 c 3 s 1; 1980 c 529 s 3.4; 1981 c 346 s 9,10 (3612)

- 79.02 [Repealed, 1969 c 9 s 10]
- 79.021 [Repealed, 1969 c 9 s 10]
- 79.03 [Repealed, 1969 c 9 s 10]
- 79.04 [Repealed, 1969 c 9 s 10]
- 79.05 [Repealed, Ex1979 c 3 s 70]
- 79.06 [Repealed, Ex1979 c 3 s 70]
- 79.07 [Repealed, Ex1979 c 3 s 70]

79.071 RATES; HEARINGS.

Subdivision 1. The commissioner shall adopt a schedule of workers' compensation insurance rates for use in this state for each classification under which business is written until January 1, 1986. The schedule of rates shall not be excessive, inadequate, or unfairly discriminatory. In adopting a schedule of rates, the commissioner may act on the written petition of the association or any other interested party requesting that a hearing be held for modification of the schedule of rates. The commissioner may include the expense of a reasonable charge for the services of an agent of record, for the service of rejected risks as set forth in sections 79.24 to 79.27.

Subd. 1a. If the legislature enacts amendments to the workers' compensation laws of this state which indicate a reduction in the schedule of rates, or the commissioner determines that the loss experience of Minnesota workers' compensation insurers indicates a change in the existing schedule of rates, the commissioner may, in his discretion, order a change in the schedule of rates or order a hearing to determine whether and by what percentage the schedule of rates should be changed. A hearing held pursuant to this subdivision is not subject to the contested case proceeding requirements of sections 79.071 and 79.072, notwithstanding section 79.076.

Subd. 2. Upon receipt of a petition requesting a hearing for modification of an existing schedule of rates, the commissioner shall determine whether the petition sufficiently sets forth facts that show that the existing schedule of rates is excessive, inadequate, unfairly discriminatory, or otherwise in need of modification so as to indicate the need to hold a hearing. The commissioner may decline to grant a hearing if the association has failed to provide information requested by previous orders modifying the schedule of rates, provided that the request was not unreasonable. The commissioner may accept or reject the petition for a hearing and shall give notice of his determination to the petitioning party within 30 days of receipt of the petition. If the commissioner rejects the petition, he shall notify the petitioning party of the reasons for the rejection.

Subd. 3. If the commissioner accepts the petition for hearing, the commissioner shall order a hearing on matters set forth in the petition requesting modification of the schedule of rates. The hearing shall be held pursuant to the contested case procedures set forth in sections 14.01 to 14.70. The burden of proof shall be on the petitioning party. The hearing examiner may admit documentary and statistical evidence accepted and relied upon by an expert whose field of expertise may have some relevance to workers' compensation rate matters, without the requirement of traditional evidentiary foundation. Within 30 days after the close of the hearing record, the hearing examiner shall transmit to the

MINNESOTA STATUTES 1982

commissioner the entire record of the hearing, including the transcript, exhibits, and all other material properly accepted into evidence, together with the finding of facts, conclusions, and recommended order made by the hearing examiner. The time for filing the report may be extended by the chief hearing examiner for good cause.

Subd. 4. The commissioner may accept, reject, or modify, in whole or in part, matters raised in the petition for modification of the schedule of rates or matters raised in the findings and recommendations of the hearing examiner. The commissioner's determination shall be based upon substantial evidence.

Subd. 5. The commissioner shall make a final determination with respect to adoption of a schedule of rates within 90 days after receipt of the hearing examiner's report. If the commissioner fails to act within the 90 day period, the findings, conclusions, and recommended order of the hearing examiner become the final order of the commissioner.

Subd. 6. The commissioner may hire a consulting actuary and other experts he deems necessary to assist in the hearing for modification of the schedule of rates. The costs of conducting the hearing provided under subdivision 3, including the costs of hiring a consulting actuary and other experts, shall be assessed against the rating association and its members.

Subd. 6a. MS1980 [Expired]

Subd. 6b. MS1980 [Expired]

Subd. 6c. MS1980 [Expired]

Subd. 6d. MS1980 [Expired]

Subd. 6e. MS1980 [Expired]

Subd. 7. The office of administrative hearings, upon approval of the chief hearing examiner, may hire consultants necessary to assist the hearing examiner assigned to a given workers' compensation rate proceeding.

Subd. 8. When an insurer's estimate of amounts required to be reserved is based in any part on the operation of section 176.645, any assumption as to reserves required due to the operation of section 176.645, shall, for the purposes of determining rates, be offset by an assumption that the amount initially reserved shall be invested and yield a return equal to the annual percentage increase in the statewide average weekly wage. With respect to other reserved amounts, the commissioner shall, in determining rates, cause those rates to fully reflect the investment earnings of insurers which arise from revenues derived from the sale of workers' compensation insurance, either by use of a discount rate of no less than six percent in determining the reserves necessary for all claims, or by the use of an alternative methodology which the commissioner finds is more appropriate. Insurers shall provide the commissioner with any information which he deems necessary to arrive at the determination required by this subdivision.

Subd. 9. In no case shall more than one insurer reserve amounts in anticipation of losses on a single claim, nor shall an insurer reserve amounts in anticipation of losses which are the responsibility of the reinsurance association.

Subd. 10. No modification by an insurer or the association of an experience rating plan, an experience rating plan formula or an experience rating factor is effective unless approved by the commissioner of insurance.

History: *Ex1979 c 3 s 2; 1980 c 556 s 1-5; 1980 c 615 s 60; 1981 c 346 s 11,12,37; 1982 c 424 s 130*

NOTE: Subdivision 1 is also repealed by Laws 1981, Chapter 346, Section 145, effective July 1, 1983.

NOTE: Subdivisions 2, 3, 4, 5, 6 and 7 are repealed by Laws 1981, Chapter 346, Section 145, effective January 1, 1986.

79.072 PETITION FOR REHEARING.

Subdivision 1. Any interested party may petition the commissioner for rehearing and reconsideration of a determination made pursuant to section 79.071. The petition for rehearing and reconsideration shall be served upon the commissioner and all parties to the rate hearing within 30 days after service of the commissioner's final order. The petition shall set forth factual grounds the petitioning party deems to exist in support of its petition. An interested party adversely affected by a petition for review and reconsideration shall be afforded 15 days to respond to factual matters so alleged in the petition.

Subd. 2. At his discretion, the commissioner may grant a rehearing upon the filing of a petition under subdivision 1. Upon rehearing, the commissioner may limit the scope of factual matters that are subject to rehearing and reconsideration. The rehearing is subject to the provisions of section 79.071.

Subd. 3. Following rehearing, the commissioner may modify the terms of the initial order adopting a change in the schedule of rates upon a determination that adequate factual grounds exist to support modification. Adequate factual grounds shall include, but need not be limited to, erroneous testimony by any witness or party to the hearing, material change in Minnesota loss or expense data occurring after a petition for modification of the schedule of rates has been filed, or any other mistake of fact that has a substantial effect upon the schedule of rates adopted in the initial order of the commissioner.

History: *Ex1979 c 3 s 3*

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective January 1, 1986.

79.073 JUDICIAL REVIEW.

Final orders of the commissioner pursuant to sections 79.071 and 79.072 are subject to judicial review by writ of certiorari brought in the district court in Ramsey County by an interested party of record adversely affected thereby. The operation of the commissioner's order is not suspended during judicial review; provided that in the event of a judicial determination against the validity of the commissioner's order, the order under review and any subsequent order shall be modified so as to give effect to the court's ruling. For purposes of further judicial review, the commissioner is an aggrieved party to the extent that his orders are modified or set aside by the district court.

History: *Ex1979 c 3 s 4*

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective January 1, 1986.

79.074 DISCRIMINATION.

Subdivision 1. **Rates.** One rate is unfairly discriminatory in relation to another if it clearly fails to reflect equitably the differences in expected losses, expenses, and the degree of risk. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy.

Subd. 2. **Dividends.** Dividend plans are not unfairly discriminatory where different premiums result for different policyholders with similar loss exposures but different expense factors, or where different premiums result for different policyholders with similar expense factors but different loss exposures, so long as the respective premiums reflect the differences with reasonable accuracy. Every insurer referred to in section 79.20 who issues participating policies shall file with the commissioner a true copy or summary as the commissioner shall direct of its participating dividend rates as to policyholders. The commissioner may study the

participating dividend rates and make recommendations to the legislature concerning possible bases for unfair discrimination.

History: *Ex1979 c 3 s 5*

NOTE: Subdivision 1 was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.075 AUTOMATIC ADJUSTMENT OF RATES.

The commissioner shall, by rule, establish a formula by which a schedule of rates may be automatically adjusted to reflect benefit changes that have been mandated by operation of law subsequent to the most recent change in the statewide schedule of rates. This adjustment shall also reflect the annual change in the maximum weekly compensation made pursuant to section 176.101, an adjustment in the assessment rate for the financing of the special fund, and the annual adjustment made pursuant to section 176.645. Any automatic adjustment made pursuant to this subdivision is effective on October 1 or as soon thereafter as possible and is not otherwise subject to sections 14.01 to 14.70.

At each rate hearing held pursuant to section 79.071 or rehearing pursuant to section 79.072, following an automatic adjustment, the commissioner shall review the rate adjustment to assure that the schedule of rates adopted subsequent to the adjustment are not excessive, inadequate, or unfairly discriminatory. If the commissioner finds that the schedule of rates adopted subsequent to the adjustment are excessive, inadequate, or unfairly discriminatory, the commissioner shall order appropriate remedial action.

History: *Ex1979 c 3 s 6; 1982 c 424 s 130*

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.076 RATE REVISION ORDER; EFFECT.

Subdivision 1. Following adoption of a revised schedule of rates pursuant to section 79.071 or 79.072, the revised rates apply to new and renewal policies issued after the effective date of the commissioner's final order.

Subd. 2. The revised schedule of rates apply to all insureds and prospective insureds pursuant to the provisions of the workers' compensation rating manual adopted by the association and approved by the commissioner, provided that the manual:

(1) Is deemed to have met the applicable requirements of sections 14.01 to 14.70 as of June 8, 1979.

(2) Shall not be amended except by a contested case proceeding held pursuant to sections 79.071 and 79.072.

History: *Ex1979 c 3 s 7; 1982 c 424 s 130*

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.08 COMMISSIONER MAY REQUIRE SURVEY.

The commissioner may at any time require a survey and report, by the association herein provided for, of any risk regarding which complaint may have been made. Its approval of any rate or classification may be withdrawn by the commissioner upon ten days notice to the parties interested.

History: *1921 c 85 s 8; 1969 c 9 s 9; 1973 c 577 s 2; Ex1979 c 3 s 68 (3619)*

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.09 CLASSIFICATION OF WORKERS' COMPENSATION INSURANCE.

No classification for compensation insurance purposes shall be effective until approved as correct by the commissioner. No rule or regulation with reference to

compensation risks filed by any insurer, or by the association herein provided, shall be effective until approved by the commissioner. No kind of insurance covering any part of the liability of an employer exempted from insuring his liability for compensation, as provided in section 176.181, shall be effective in this state unless approved by the commissioner. If it appears at any time that reasonable doubt on the part of the commissioner as to the proper classification or rate for any risk exists, such risk may be bound for insurance subject to rate and classification to be established therefor.

History: 1921 c 85 s 9; 1931 c 392 s 1; 1957 c 508 s 2; 1969 c 9 s 9; 1973 c 577 s 2; 1975 c 359 s 23; Ex1979 c 3 s 68 (3620)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.095 APPOINTMENT OF ACTUARY.

The commissioner shall employ the services of a casualty actuary experienced in worker's compensation whose duties shall include but not be limited to investigation of complaints by insured parties relative to rates, rate classifications, or discriminatory practices of an insurer. The salary of the actuary employed pursuant to this section is not subject to the provisions of section 43A.17, subdivision 1.

History: 1977 c 342 s 24; Ex1979 c 3 s 8; 1981 c 210 s 54

79.10 REVIEW OF ACTS OF INSURERS.

The insurance division staff may investigate on the request of any person or on its own initiative the acts of the rating association, an insurer, or an agent that are subject to provisions of sections 79.01 to 79.23 and may make findings and recommendations that the commissioner issue an order requiring compliance with the provisions thereof. The proposed findings and recommended order shall be served on all affected parties at the same time that the staff transmits its findings and recommendations to the commissioner. Any party adversely affected by the proposed findings and recommended order may request that a hearing be held concerning the issues raised therein within 15 days after service of the findings and recommended order. This hearing shall be conducted as a contested case pursuant to sections 14.01 to 14.70. If a hearing is not requested within the time specified in this section, the proposed findings and recommended order may be adopted by the commissioner as a final order.

History: 1921 c 85 s 10; 1953 c 615 s 3; 1969 c 9 s 9; 1973 c 577 s 2; Ex1979 c 3 s 9; 1982 c 424 s 130 (3621)

79.11 INSURERS SHALL BE MEMBERS OF ASSOCIATION.

Every insurer transacting the business of workers' compensation insurance in this state shall be a member of the association organized under sections 79.01 to 79.23, to be maintained in this state for the following purposes:

(1) To separate the industries of this state that are subject to workers' compensation insurance into proper classes for compensation insurance purposes; to make inspections of compensation risks and to apply thereto the merit and experience rating system approved for use in this state; to establish charges and credits under the system and make reports showing all facts affecting these risks as the subject of compensation insurance and for approving policies of compensation insurance as being written in conformity with classifications and rates previously promulgated by the association and approved by the commissioner; and

(2) To assist the commissioner and insurers in approving rates, determining hazards and other material facts in connection with compensation risks, and to assist in promoting safety in the industries.

History: 1921 c 85 s 11; 1947 c 98 s 2; 1969 c 9 s 9; 1973 c 577 s 2; 1975 c 359 s 23; Ex1979 c 3 s 68 (3622)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.12 ORGANIZATION OF ASSOCIATION.

The association shall adopt articles of association and bylaws for its government and for the government of its members. These articles and bylaws and all amendments thereto shall be filed with and approved by the commissioner and shall not be effective until so filed and approved. The association shall admit to membership any insurer authorized to transact workers' compensation insurance in this state. The charges and service of the association shall be fixed in the articles or bylaws and shall be equitable and non-discriminatory as between members.

History: 1921 c 85 s 12; 1969 c 9 s 9; 1973 c 577 s 2; 1975 c 359 s 23; Ex1979 c 3 s 68 (3623)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.13 EXPENSE, HOW PAID.

Each member of the association shall pay an equitable and non-discriminatory share of the cost of operating the association. If the members of the association cannot agree upon an apportionment of cost, any member may in writing petition the commissioner to establish a basis for apportioning the cost. If any member is aggrieved by an apportionment made by the association, it may in writing petition the commissioner for a review of the apportionment. The commissioner shall, upon not less than five days notice to each member of the association hold a hearing upon any such petition at which all members are entitled to be present and be heard. The commissioner shall determine the matter and mail a copy of his decision to each member of the association. The decision of the commissioner shall be final and binding upon all members of the association.

History: 1921 c 85 s 13; 1969 c 9 s 9; 1973 c 577 s 2; Ex1979 c 3 s 68 (3624)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.14 REPRESENTATION.

Each class of insurers, stock companies, mutual companies, and interinsurers, which are members of the association shall be represented in the association management and on committees, as provided in the bylaws, but the non-stock and stock companies shall have equal representation on the governing or managing committee and on the rating committee of the association. One-half of the members of each committee shall be chosen by the non-stock companies and one-half by the stock companies. Each member company shall be entitled to one vote. In case of a tie vote upon any committee, the commissioner shall cast the deciding vote.

History: 1921 c 85 s 14; 1947 c 210 s 1; 1969 c 9 s 9; 1973 c 577 s 2; Ex1979 c 3 s 68 (3625)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.15 LICENSE; FEE.

The association shall procure annually from the commissioner a license to carry on its business. The license year for the association shall be from March

first to the last day of February succeeding. The association shall pay to the state through the commissioner an annual license fee of \$100 to be paid at the time of filing application for license. The commissioner shall prescribe blanks and make needed regulations governing the licensing of the association.

History: 1921 c 85 s 15; 1947 c 52 s 1; 1969 c 9 s 9; 1973 c 577 s 2; Ex1979 c 3 s 68 (3626)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.16 ANNUAL STATEMENT.

The association shall annually on or before March first file with the commissioner a statement covering its activities for the year ending on the preceding thirty-first day of December. This report shall cover its financial transactions and other matters connected with its operation as required by the commissioner. The commissioner shall prescribe the form of the report. The association shall be subject to supervision and examination by the commissioner or any examiner authorized by him. Examinations may be made as often as deemed expedient. The expense of an examination shall be paid by the association.

History: 1921 c 85 s 16; 1969 c 9 s 9; 1973 c 577 s 2; Ex1979 c 3 s 68 (3627)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.17 ASSOCIATION SHALL MAKE CLASSIFICATION.

The association shall, on behalf of its members, assign each compensation risk and subdivision thereof in this state to its proper classification. The determination as to the proper classification by the association shall be subject to the approval of the commissioner as herein provided. The association shall, on behalf of all members thereof, inspect and make a written survey of each risk to which the system of merit rating approved for use in this state is applicable. It shall, on behalf of all the members thereof, file with the commissioner its classification of risks and keep on file at the office of the association the written surveys of all risks inspected by it, which survey shall show the location and description of all items producing charges and credits, if any, and such other facts as are material in the writing of insurance thereon. It shall file any subsequent proposed classification or later survey and all rules and regulations which do or may affect the writing of these risks. The association classification shall be binding upon all insurers. The commissioner and the association and its representatives shall give all information as to classifications, rates, surveys, and other facts collected and intended for the common use of insurers subject to sections 79.01 to 79.23 to all these insurers at the same time. A copy of the complete survey, with the approved classification and rates based thereon and the effective date thereof, shall be furnished to the insurer of record as soon as approved. The approved classification and rates upon a specific risk shall be furnished upon request to any other insurer upon the payment of a reasonable charge for the service. Every insurer shall promptly file with the association a copy of each payroll audit, which shall be checked by the association for correctness of classification and rate. The commissioner may require the association to file with it any such copy and may verify any payroll audit by a reaudit of the books of the employer or in such other manner as may to it appear most expedient. Upon written complaint stating facts sufficient to warrant action by it, the commissioner shall verify any payroll audit reported to it.

History: 1921 c 85 s 17; 1947 c 98 s 3; 1969 c 9 s 9; 1973 c 577 s 2; Ex1979 c 3 s 68 (3628)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.171 INFORMATION.

In addition to other information that the commissioner requests pursuant to section 79.071, the rating association shall: (a) separate the incurred but not reported losses of its members; (b) separate paid and outstanding losses of its members; (c) provide information indicating cases in which its members have established a reserve in excess of \$50,000; and (d) provide information on the income on invested reserves of its members.

The commissioner shall consider this information in an appropriate manner in adopting a schedule of rates and shall decline to grant a hearing pursuant to section 79.071 if the association fails to provide the information.

History: *Ex1979 c 3 s 10*

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.18 RECORD; SHALL FURNISH INFORMATION.

The association shall keep a careful record of its proceedings. It shall furnish, upon his demand, to any employer upon whose workers' compensation risk a survey has been made, full information as to the survey, including the method of the computation and a detailed description and location of all items producing charges or credits. The association shall provide such means as may be approved by the commissioner whereby any member or any employer whose risk has been inspected by it may be heard, either in person or by a representative, before the governing or rating committee or other proper representatives with reference to any matter affecting the risk. Any insurer or employer may appeal from a decision of the association to the commissioner. The association shall make rules governing appeals, which rules shall be filed with and approved by the commissioner. The association shall file with the commissioner when it may call therefor such information as it may have concerning any matter connected with its activities.

History: *1921 c 85 s 18; 1969 c 9 s 9; 1973 c 577 s 2; 1975 c 359 s 23; Ex1979 c 3 s 68 (3629)*

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.19 INSURERS SHALL NOT DISCRIMINATE.

No insurer shall make or charge any rate for workers' compensation insurance in this state which discriminates unfairly between risks or classes, or which discriminates unfairly between risks in the application of like charges and credits in the plan of merit or experience rating in use; and no insurer shall discriminate by granting to any employer insurance against other hazards at less than its regular rates for such insurance or otherwise.

History: *1921 c 85 s 19; 1947 c 98 s 4; 1975 c 359 s 23 (3630)*

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.20 RATES SHALL BE FILED.

Every insurer writing workers' compensation insurance in this state shall, except as otherwise ordered by the commissioner, file with the commissioner its rates for this insurance and all additions thereto or changes therein. All rates so filed shall comply with the requirements of law and shall not be effective or used until approved as to such compliance by the commissioner. A rate which is filed and approved shall not be changed until the substituted rate has been filed for at least 15 days and has been approved by the commissioner.

History: *1921 c 85 s 20; 1969 c 9 s 9; 1973 c 577 s 2; 1975 c 359 s 23 (3631)*

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.21 RATES TO BE UNIFORM; EXCEPTIONS.

No insurer shall write insurance at a rate that exceeds that made and put into force by the bureau and approved as reasonable by the commissioner. The bureau may reduce or increase a rate by the application to individual risks of the system of merit or experience rating which has been approved by the commissioner. This reduction or increase shall be set forth in the policy or by indorsement thereon. Upon written request an insurer shall furnish a written explanation to the insured of how and why the individual rate was adjusted by application of a system of merit or experience rating. This explanation shall be mailed to the insured within 30 days of the request. An insurer may write insurance at rates that are lower than the rates approved by the commissioner provided the rates are not unfairly discriminatory.

History: 1921 c 85 s 21; 1947 c 98 s 5; 1969 c 9 s 9; 1973 c 577 s 2; 1979 c 271 s 2; Ex1979 c 3 s 11 (3632)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.211 CERTAIN PREMIUM DETERMINATION PRACTICES.

Subdivision 1. **Certain wages excluded for rate making.** The rating association or an insurer shall not include wages paid for a vacation, holiday, or sick leave in the determination of a workers' compensation insurance premium.

Subd. 2. **Division of payroll.** An insurer shall permit an employer to divide his payroll among the rating classifications most closely fitting the work actually performed for purposes of premium calculation when the employer's records provide adequate support for a division.

History: Ex1979 c 3 s 12; 1980 c 556 s 6; 1981 c 346 s 139

79.22 DUTIES OF COMMISSIONER.

Subdivision 1. The commissioner of insurance shall require these insurers, or their agents, to file with him on such blanks as he may prescribe such reports as in the judgment of the commissioner, may be necessary for the purposes of sections 79.01 to 79.23; and this information when so filed shall be available for the use of the commissioner. No information regarding the writings of any insurer shall be made public by the commissioner or the association, or any of its employees, except as required by law.

Subd. 2. The commissioner shall annually examine the reopened case fund established in section 176.134 to determine whether the fund has sufficient assets to cover claims charged against the fund including the maintenance of reasonable reserves. If upon this examination the commissioner deems it necessary for the maintenance of the required assets he shall determine the amount to be assessed against insurers and self-insured employers and shall notify the commissioner of labor and industry of the determination.

History: 1921 c 85 s 22; 1969 c 9 s 9; 1973 c 577 s 2; Ex1979 c 3 s 13,68 (3633)

NOTE: Subdivision 1 was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.221 INDEPENDENT CONTRACTORS; PAYROLL DETERMINATION.

Pursuant to the contested case procedures in sections 14.01 to 14.70, the commissioner may establish a formula to be used to determine the remuneration of independent contractors whose actual payroll cannot be determined.

History: Ex1979 c 3 s 14; 1982 c 424 s 130

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.23 VIOLATIONS; PENALTIES.

Any insurer, rating association, agent, or other representative or employee of any insurer or rating association failing to comply with, or which is guilty of a violation of, any of the provisions of sections 79.01 to 79.23, or of any order or ruling of the commissioner of insurance made thereunder, shall be punished by a fine of not less than \$50 nor more than \$500. In addition thereto, the license of any insurer, agent, or broker guilty of such violation may be revoked or suspended by the commissioner of insurance.

History: 1921 c 85 s 23; 1969 c 9 s 9; 1973 c 577 s 2; Ex1979 c 3 s 68 (3634)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.24 INSURERS REQUIRED TO TAKE CERTAIN RISKS; REFUSAL TO WRITE.

It shall be the duty of companies carrying workers' compensation insurance and being members of the rating association of Minnesota, as defined in the statutes of this state, to insure and accept any workers' compensation insurance risk which shall have been tendered to and rejected by any member of the association, in the manner herein provided. The member of the association, or any agent of the member, refusing to write this insurance when the applicant has made written application for insurance, shall forthwith furnish the applicant for insurance a written statement of the refusal, and the member of the association, or any agent of the member, to whom written application has been made, shall forthwith file a copy of the refusal with the rating association. The commissioner of insurance may revoke the license of the member or agent for refusal or failure to give the refusal in writing. The commissioner of insurance shall notify all members of the association now licensed to write insurance and such companies as may thereafter become members of the association of the provisions of this section.

History: 1929 c 237 s 1; 1937 c 175 s 1; 1969 c 9 s 9; 1975 c 359 s 23; Ex1979 c 3 s 68 (3634-1)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.25 COMMISSIONER TO FIX PREMIUM RATES.

Subdivision 1. When any rejected risk is called to its attention and it appears that the risk is in good faith entitled to coverage the commissioner of insurance shall fix the initial premium therefor and may fix an additional charge to compensate the agent of record for his services and, upon its payment, the commissioner of insurance shall enter into a service contract with one or more qualified members of the association, or qualified group self-insurance administrators licensed pursuant to section 176.181, subdivision 2, clause (2)(a), whose duty it shall be to issue a policy, or a group self-insurance administration contract, containing the usual and customary provisions found in such policies or contracts therefor, but for which undertaking all members of the association shall be reinsurers as among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by that member bears to the total compensation insurance written in this state during the preceding year by all the members of the association. The assigned risk plan shall be treated as a group self-insurer member of the reinsurance association for the purposes of sections 79.34 to 79.40 and shall be deemed to have selected the higher retention limit provided in section 79.34, subdivision 2. A qualified member or group self-insurance administrator shall possess sufficient financial, professional, administrative and personnel resources to serve the policies or self-insurance contracts contemplated in the service contract.

Subd. 2. An insurer that issues a policy pursuant to this section shall not receive an expense allowance that exceeds the expense allowance approved by the commissioner for other insurers.

History: 1929 c 237 s 2; 1969 c 949 s 2; Ex1979 c 3 s 15,68; 1981 c 346 s 13 (3634-2)

NOTE: This section was also repealed by Laws 1981, Chapter 346, Section 145, effective July 1, 1983.

79.251 ADMINISTRATION OF ASSIGNED RISK PLAN.

Subdivision 1. **Assigned risk plan review board.** (1) An assigned risk plan review board is created for the purposes of review of the operation of sections 79.24 to 79.27. The board shall have all the usual powers and authorities necessary for the discharge of its duties under this section and may contract with individuals in discharge of those duties.

(2) The board shall consist of five members to be appointed by the commissioner of insurance. Two members shall be insureds holding policies issued pursuant to section 79.25. Two members shall be members of the association. The commissioner shall be the fifth member and shall vote.

Initial appointments shall be made by September 1, 1981 and terms shall be for three years duration. Removal, the filling of vacancies and compensation of the members other than the commissioner shall be as provided in section 15.059.

(3) The assigned risk review board shall audit the reserves established by insurers (a) for individual cases arising under policies issued under section 79.25 and (b) for the total book of business issued under section 79.25.

(4) The assigned risk review board shall monitor the operations of sections 79.24 to 79.27 and shall periodically make recommendations to the commissioner, and to the governor and legislature when appropriate, for improvement in the operation of those sections.

(5) All members of the association issuing policies under section 79.25 shall pay and the commissioner shall receive and disburse, on behalf of the board, a .25 percent assessment on premiums for policies issued under section 79.25 for the purpose of defraying the costs of the assigned risk review board.

Subd. 2. **Appropriate merit rating plan.** The commissioner shall develop an appropriate merit rating plan which shall be applicable to all insureds holding policies issued pursuant to section 79.25 whose premium is less than the amount necessary to qualify for experience rating and to the insurers issuing those policies. The plan shall provide a maximum merit payment equal to ten percent of earned premium. The actual payment may vary with insured's loss experience.

History: 1981 c 346 s 14

79.26 COMMISSIONER TO ADOPT RULES.

The commissioner of insurance may make and adopt such rules as may be necessary to carry this law into effect. Temporary rulemaking authority is granted.

History: 1929 c 237 s 3; 1969 c 9 s 9; 1973 c 577 s 2; Ex1979 c 3 s 68; 1981 c 346 s 15 (3634-3)

NOTE: This section was also repealed by Laws 1981, Chapter 346, Section 145, effective July 1, 1983.

79.27 APPLICATION.

As a prerequisite to the transaction of workers' compensation insurance in this state every insurance carrier shall file with the commissioner of insurance

written authority permitting the commissioner of insurance to act in its behalf, as provided in sections 79.24 to 79.27.

History: 1929 c 237 s 4; 1969 c 9 s 9; 1975 c 359 s 23; Ex1979 c 3 s 68; 1981 c 346 s 16 (3634-4)

NOTE: This section was also repealed by Laws 1981, Chapter 346, Section 145, effective July 1, 1983.

79.28 LIABILITY OF INSURERS.

Carriers of workers' compensation insurance shall be liable to the extent and in the manner hereafter set forth for the payment of unpaid awards of workers' compensation arising out of injuries sustained from and after the passage of Laws 1935, Chapter 103, while the employer was insured by a carrier and the carrier becomes insolvent. Upon the determination by the commissioner of insurance, or other competent authority of the state where the carrier is incorporated or organized, that any carrier of workers' compensation insurance, which is or has been engaged in such business in this state, is insolvent, the workers' compensation division shall thereupon and thereafter from time to time certify to the rating association of Minnesota, as defined in sections 79.11 and 79.12, the unpaid awards of workers' compensation for such injuries outstanding against employers insured by this carrier and as to which it is liable. The rating association shall thereupon make payment of the unpaid awards so far as funds are available at the times and in the amounts required by the awards, unless payment in a lesser number of instalments is authorized by the commissioner of the department of labor and industry; and, if sufficient funds to make all of the payments due and payable are not available in any one year, the available funds shall be prorated to these claims in proportion to the amounts of the awards due and payable in that year and the unpaid portion thereof shall be paid as soon as funds are available.

History: 1935 c 103 s 1; Ex1967 c 1 s 6; 1969 c 9 s 9; 1973 c 388 s 1; 1975 c 359 s 1,2,3; Ex1979 c 3 s 68 (3634-6)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.29 ASSESSMENTS.

If necessary to secure funds for the payment of these awards, it shall be the duty of the rating association upon such certification, to levy assessments on all carriers writing workers' compensation insurance in the proportion that the workers' compensation insurance written by each such carrier in the state during the preceding calendar year bears to the total of such insurance written in the state during that year. The assessments may be made at any time by the association in its discretion for such amount as it estimates will be necessary to meet both past and future awards which will probably become due and payable during the year in which the assessment is levied. Each company assessed shall have at least 30 days notice by mail as to the date the assessment is due and payable. In no event shall the total sum assessed in any calendar year exceed one percent of the premiums for workers' compensation insurance written in this state during the preceding calendar year. Any assessment paid under the provisions of sections 79.28 to 79.32 shall be included in determining the loss ratio of such carriers.

History: 1935 c 103 s 2; 1975 c 359 s 23; Ex1979 c 3 s 68 (3634-7)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.30 SUBROGATION UPON INSOLVENCY.

The rating association shall be subrogated to the rights of the employee, or his dependents, as against the employer's worker's compensation insurance carrier, to the extent of payments made by the rating association under the provisions of sections 79.28 to 79.32 and shall take such legal proceedings as it shall deem

necessary or advisable to recover thereon, and all sums so recovered shall constitute an additional fund for payment of these awards until the same are paid in full. The rating association shall not be subrogated to the rights of the employee, or his dependents, if any, as against the employer. In such a proceeding against an insolvent carrier, the rating association shall have first priority in payment from the assets of the insolvent insurer.

History: 1935 c 103 s 3; 1977 c 342 s 26; Ex1979 c 3 s 68 (3634-8)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.31 RATING ASSOCIATION TO BE PARTY IN INTEREST.

After insolvency of any such carrier the rating association shall be a party in interest in all workers' compensation proceedings involving risk insured by this carrier with the same rights to receive notice, defend, appeal, and review as a solvent carrier would have.

History: 1935 c 103 s 4; 1975 c 359 s 23; Ex1979 c 3 s 68 (3634-9)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.32 DUTIES OF RATING ASSOCIATION.

The association may sue for and recover any assessment not paid when due and any member thereof which shall fail to pay an assessment, as provided in sections 79.28 to 79.32, shall be liable to forfeiture and revocation of its license upon complaint made to the commissioner of insurance by the association.

History: 1935 c 103 s 5; 1969 c 9 s 9; Ex1979 c 3 s 68 (3634-10)

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.33 ADDITIONAL DUTIES OF THE COMMISSIONER.

In addition to other duties prescribed to the commissioner, he may: (a) study the feasibility of extending the experience rating system to employers who are not covered by it; and (b) require insurers when establishing reserves to use life expectancy tables, when available, that are appropriate for persons with equivalent disabilities. If these life expectancy tables are not available, the commissioner shall require insurers to develop them unless their development is not feasible.

History: Ex1979 c 3 s 16

NOTE: This section was repealed by Laws 1981, Chapter 346, Section 145 effective July 1, 1983.

79.34 CREATION OF REINSURANCE ASSOCIATION.

Subdivision 1. A nonprofit association known as the workers' compensation reinsurance association is created, which may be incorporated under chapter 317 with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.40 or any amendments thereto, sections 79.34 to 79.40 shall govern. Each insurer as defined by section 79.01, subdivision 2, shall as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and shall be bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in sections 60D.01 to 60D.13 shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved pursuant to section 176.181 and each political subdivision which self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and shall be bound by its plan of operation; provided, that (a) all affiliated companies within a holding company system, as determined

by the commissioner in a manner consistent with the standards and definitions in sections 60D.01 to 60D.13, shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association, and (b) all group self-insurers granted authority to self-insure pursuant to section 176.181 shall be considered a single entity for purposes of the exercise of all the rights and duties of membership in the reinsurance association. The reinsurance association shall not be deemed a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of insurance with respect to the reinsurance association shall not be subject to chapter 14. The reinsurance association shall be exempt from taxation under the laws of this state and all property owned by the association shall be exempt from taxation. The reinsurance association shall not be obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Subd. 2. The reinsurance association shall provide and each member shall accept indemnification for 100 percent of the amount of ultimate loss sustained in each loss occurrence relating to one or more claims arising out of a single compensable event, including aggregate losses related to a single event or occurrence which constitutes a single loss occurrence, under chapter 176 on and after October 1, 1979, in excess of \$300,000 or \$100,000 retention limit, at the option of the member. In case of occupational disease causing disablement on and after October 1, 1979, each person suffering such disablement shall be considered to be involved in a separate loss occurrence. The lesser retention limit shall be increased to the nearest \$10,000, on January 1, 1982 and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, as determined in accordance with section 176.011, subdivision 20. On January 1, 1982 and on each January 1 thereafter, the greater retention limit shall be increased by the amount necessary to retain a \$200,000 difference between the two retention limits. Ultimate loss as used in this section means the actual loss amount which a member is obligated to pay and which is paid by the member for workers' compensation benefits payable under chapter 176 and shall not include claim expenses, assessments, damages or penalties. A loss is incurred by the reinsurance association on the date on which the accident or other compensable event giving rise to the loss occurs, and a member is liable for a loss up to its retention limit in effect at the time that the loss was incurred, except that members which are determined by the reinsurance association to be controlled by or under common control with another member, and which are liable for claims from one or more employees entitled to compensation for a single compensable event, including aggregate losses relating to a single loss occurrence, may aggregate their losses and obtain indemnification from the reinsurance association for the aggregate losses in excess of the higher retention limit in effect at the time the loss was incurred. Each member is liable for payment of its ultimate loss and shall be entitled to indemnification from the reinsurance association for the ultimate loss in excess of the member's retention limit in effect at the time of the loss occurrence.

A member that chooses the higher retention limit shall retain the liability for all losses below the higher retention limit itself and shall not transfer the liability to any other entity or reinsure or otherwise contract for reimbursement or indemnification for losses below its retention limit, except in the following cases: (a) when the reinsurance or contract is with another member which, directly or indirectly, through one or more intermediaries, control or are controlled by or are under common control with the member; (b) when the reinsurance or contract provides for reimbursement or indemnification of a member if and only if the total of all claims which the member pays or incurs, but which are not reimbursable or subject to indemnification by the reinsurance association for a given period of time, exceeds a dollar value or percentage of premium written or earned and stated

in the reinsurance agreement or contract; (c) when the reinsurance or contract is a pooling arrangement with other insurers where liability of the member to pay claims pursuant to chapter 176 is incidental to participation in the pool and not as a result of providing workers' compensation insurance to employers on a direct basis under chapter 176; (d) when the reinsurance or contract is limited to all the claims of a specific insured of a member which are reimbursed or indemnified by a reinsurer which, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the insured of the member so long as any subsequent contract or reinsurance of the reinsurer relating to the claims of the insured of a member is not inconsistent with the bases of exception provided under clauses (a), (b) and (c) above; or (e) when the reinsurance or contract is limited to all claims of a specific self-insurer member which are reimbursed or indemnified by a reinsurer which, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the self-insurer member so long as any subsequent contract or reinsurance of the reinsurer relating to the claims of the self-insurer member are not inconsistent with the bases for exception provided under clauses (a), (b) and (c) above.

Whenever it appears to the commissioner that any member that chooses the higher retention limit has participated in the transfer of liability to any other entity or reinsured or otherwise contracted for reimbursement or indemnification of losses below its retention limit in a manner inconsistent with the bases for exception provided under clauses (a), (b), (c), (d), and (e), the commissioner may, after giving notice and an opportunity to be heard, order the member to pay to the state of Minnesota an amount not to exceed twice the difference between the reinsurance premium for the higher and lower retention limit applicable to the member for each year in which the prohibited reinsurance or contract was in effect. Any member subject to this penalty provision shall continue to be bound by its selection of the higher retention limit for purposes of membership in the reinsurance association.

Subd. 3. An insurer may withdraw from the reinsurance association only upon ceasing to be authorized by license issued by the commissioner to transact workers' compensation insurance in this state and when all workers' compensation insurance policies issued by such insurer have expired; a self-insurer may withdraw from the reinsurance association only upon ceasing to be approved to self-insure workers' compensation liability in this state pursuant to section 176.181.

An insurer or self-insurer which withdraws or whose membership in the reinsurance association is terminated shall continue to be bound by the plan of operation. Upon withdrawal or termination, all unpaid premiums which have been charged to the withdrawing or terminated member shall be payable as of the effective date of the withdrawal or termination.

Subd. 4. An unsatisfied net liability to the reinsurance association of an insolvent member shall be assumed by and apportioned among the remaining members of the reinsurance association as provided in the plan of operation. The reinsurance association shall have all rights allowed by law on behalf of the remaining members against the estate or funds of the insolvent member for sums due the reinsurance association.

Subd. 5. When a member has been merged or consolidated into another insurer or self-insurer, or another insurer, which provides insurance required by chapter 176, has reinsured a member's entire business, the member and successors in interest of the member shall remain liable for the member's obligations.

Subd. 6. The commissioner shall require each member to identify the portion of all losses which exceed its retention limit selected under this section in any report filed with the workers' compensation insurers rating association of Minneso-

ta or filed with the insurance division for use in reviewing the workers' compensation schedule of rates.

History: *Ex1979 c 3 s 17; 1980 c 556 s 7; 1981 c 346 s 17,18,139; 1Sp1981 c 4 art 1 s 62; 1982 c 424 s 130*

79.35 DUTIES; RESPONSIBILITIES; POWERS.

The reinsurance association shall do the following on behalf of its members:

- (a) Assume 100 percent of the liability as provided in section 79.34;
- (b) Establish procedures by which members shall promptly report to the reinsurance association each claim which, on the basis of the injury sustained, may reasonably be anticipated to involve liability to the reinsurance association if the member is held liable under chapter 176. Solely for the purpose of reporting claims, the member shall in all instances consider itself legally liable for the injury. The member shall advise the reinsurance association of subsequent developments likely to materially affect the interest of the reinsurance association in the claim;
- (c) Maintain relevant loss and expense data relative to all liabilities of the reinsurance association and require each member to furnish statistics in connection with liabilities of the reinsurance association at the times and in the form and detail as may be required by the plan of operation;
- (d) Calculate and charge to members a total premium sufficient to cover the expected liability which the reinsurance association will incur in excess of the higher retention limit but less than the prefunded limit, together with incurred or estimated to be incurred operating and administrative expenses for the period to which this premium applies and actual claim payments to be made by members, during the period to which this premium applies, for claims in excess of the prefunded limit in effect at the time the loss was incurred. The prefunded limit shall be \$2,500,000 on and after October 1, 1979, provided that the prefunded limit shall be increased on January 1, 1983 and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, to the nearest \$100,000, as determined in accordance with section 176.011, subdivision 20. Each member shall be charged a proportion of the total premium in an amount equal to its proportion of the total standard earned premium of all members during the period to which the reinsurance association premium will apply, as determined by the commissioner. Each member exercising the lower retention option shall also be charged a premium established by the board as sufficient to cover incurred or estimated to be incurred claims for the liability the reinsurance association is likely to incur between the lower and higher retention limits for the period to which the premium applies. Each member shall also be charged a premium determined by the board to equitably distribute excess or deficient premiums from previous periods including any excess or deficient premiums resulting from a retroactive change in the prefunded limit. An equitable basis for determining standard earned premium for self-insurers shall be established by the commissioner. The premiums charged to members shall not be unfairly discriminatory as defined in section 79.074. All premiums shall be approved by the commissioner;
- (e) Require and accept the payment of premiums from members of the reinsurance association;
- (f) Receive and distribute all sums required by the operation of the reinsurance association;
- (g) Establish procedures for reviewing claims procedures and practices of members of the reinsurance association. If the claims procedures or practices of a member are considered inadequate to properly service the liabilities of the reinsurance association, the reinsurance association may undertake, or may contract with another person, including another member, to adjust or assist in the

adjustment of claims which create a potential liability to the association and may charge the cost of the adjustment to the member; and

(h) Provide each member of the reinsurance association with an annual report of the operations of the reinsurance association in a form the board of directors may specify.

History: *Ex1979 c 3 s 18; 1980 c 556 s 8; 1981 c 346 s 19,139*

79.36 ADDITIONAL POWERS.

In addition to the powers granted in section 79.35, the reinsurance association may do the following:

(a) Sue and be sued. A judgment against the reinsurance association shall not create any direct liability against the individual members of the reinsurance association. The reinsurance association shall provide in the plan of operation for the indemnification, to the extent provided in the plan of operation, of the members, members of the board of directors of the reinsurance association, and officers, employees and other persons lawfully acting on behalf of the reinsurance association;

(b) Reinsure all or any portion of its potential liability, including potential liability in excess of the prefunded limit, with reinsurers licensed to transact insurance in this state or otherwise approved by the commissioner;

(c) Provide for appropriate housing, equipment, and personnel as may be necessary to assure the efficient operation of the reinsurance association;

(d) Contract for goods and services, including but not limited to independent claims management, actuarial, investment, and legal services from others within or without this state to assure the efficient operation of the reinsurance association;

(e) Adopt operating rules, consistent with the plan of operation, for the administration of the reinsurance association, enforce those operating rules, and delegate authority as necessary to assure the proper administration and operation of the reinsurance association;

(f) Intervene in or prosecute at any time, including but not limited to intervention or prosecution as subrogee to the member's rights in a third party action, any proceeding under this chapter or chapter 176 in which liability of the reinsurance association may, in the opinion of the board of directors of the reinsurance association or its designee, be established, or the reinsurance association affected in any other way;

(g) The net proceeds derived from intervention or prosecution of any subrogation interest, or other recovery, shall first be used to reimburse the reinsurance association for amounts paid or payable pursuant to this chapter, together with any expenses of recovery, including attorney's fees, and any excess shall be paid to the member or other person entitled thereto, as determined by the board of directors of the reinsurance association, unless otherwise ordered by a court.

(h) Hear and determine complaints of a company or other interested party concerning the operation of the reinsurance association; and

(i) Perform other acts not specifically enumerated in this section which are necessary or proper to accomplish the purposes of the reinsurance association and which are not inconsistent with sections 79.34 to 79.42 or the plan of operation.

History: *Ex1979 c 3 s 19; 1980 c 556 s 9; 1981 c 346 s 20,139*

79.37 BOARD OF DIRECTORS.

A board of directors of the reinsurance association is created and shall be responsible for the operation of the reinsurance association consistent with the plan of operation and sections 79.34 to 79.42. The board shall consist of nine

directors and the commissioner of insurance who shall be an ex officio member. Four members of the board shall represent insurers, three members of the board shall represent employers, at least one, but not more than two, of whom shall represent self-insurers, and two members of the board shall represent employees. Members shall elect the insurer directors, and the commissioner shall appoint the employer and employee directors, for the terms authorized in the plan of operation. Each board member shall be entitled to one vote. Terms of the directors shall be staggered so that the terms of all the directors do not expire at the same time and so that a director does not serve a term of more than four years. The board shall select a chairman and other officers it deems appropriate.

A majority of the board shall constitute a quorum, notwithstanding any vacancies. Action may be taken by a majority vote of the directors present.

History: *Ex1979 c 3 s 20; 1980 c 556 s 10; 1981 c 346 s 139*

79.38 PLAN OF OPERATION.

Subdivision 1. **Provisions.** The plan of operation shall provide for all of the following:

- (a) The establishment of necessary facilities;
- (b) The management and operation of the reinsurance association;
- (c) A preliminary premium, payable by each member in proportion to its total premium in the year preceding the inauguration of the reinsurance association, for initial expenses necessary to commence operation of the reinsurance association;
- (d) Procedures to be utilized in charging premiums, including adjustments from excess or deficient premiums from prior periods;
- (e) Procedures governing the actual payment of premiums to the reinsurance association;
- (f) Reimbursement of each member of the board by the reinsurance association for actual and necessary expenses incurred on reinsurance association business;
- (g) The composition, terms, compensation and other necessary rules consistent with section 79.37 for boards of directors of the reinsurance association to succeed the initial board provided in section 79.41;
- (h) The investment policy of the reinsurance association; and
- (i) Any other matters required by or necessary to effectively implement sections 79.34 to 79.42.

Subd. 2. **Validity.** If the reinsurance association is incorporated pursuant to chapter 317, the plan of operation shall be filed with and accepted by the secretary of state as the corporation's articles of incorporation and bylaws. The plan of operation shall be valid as articles of incorporation and bylaws under chapter 317, notwithstanding that one or more of the required provisions for articles and bylaws under chapter 317 is not included or requirements of form are not followed.

Subd. 3. **Amendments.** (a) **Procedure with members' ratification.** The plan of operation may be amended, in whole or in part, as follows: proposal of an amendment by a member of the board and adoption by a majority vote of the board at a meeting duly called for that purpose, ratification by a majority vote of the members at any annual meeting or special meeting duly called for that purpose, and approval of the commissioner, provided that an amendment shall be deemed approved 30 days after the day following the date of ratification by the members if not sooner disapproved by written order of the commissioner.

(b) **Emergency board power to amend with delayed members' ratification.** The board shall have emergency powers to amend the plan at a meeting duly called for

that purpose, without ratification by the members; provided that a meeting of members shall be scheduled to consider ratification of the amendment within 90 days.

(c) **Commissioner's power to amend.** If the board proposes an amendment which the members decline to ratify, the commissioner is authorized, upon request of the board, to amend the plan as proposed by the board when he determines that failure to adopt the proposed amendment may seriously impair the ability of the reinsurance association to meet its financial obligations.

(d) **Delegation of authority to ratify.** By a majority vote, the members, voting in person, or by proxy if authorized by the board, at a meeting duly called for that purpose, may authorize the board to exercise the power of amendment of the plan without ratification by the members. When the members have authorized the board to amend the plan without ratification by the members, the board may, by a majority vote of the directors, amend the plan, provided that notice of the meeting and of the proposed amendment shall be given to each director and officer, including the commissioner. By a majority vote, the members, voting in person, or by proxy if authorized by the board, at a meeting duly called for that purpose, may prospectively revoke the authority of the board to amend the plan without ratification by the members.

History: *Ex1979 c 3 s 21; 1980 c 556 s 11; 1981 c 346 s 139*

79.39 APPLICABILITY OF CHAPTER 79.

The reinsurance association is subject to all the provisions of this chapter. The commissioner or an authorized representative of the commissioner may visit the reinsurance association at any time and examine the reinsurance association's operations, records and practices.

History: *Ex1979 c 3 s 22*

79.40 PREMIUM INCLUSION IN RATEMAKING.

Premiums charged members by the reinsurance association shall be recognized in the ratemaking procedures for insurance rates in the same manner as assessments for the special compensation fund.

History: *Ex1979 c 3 s 23*

79.41 [Repealed, 1980 c 556 s 13; 1981 c 346 s 139]

79.42 [Repealed, 1980 c 556 s 13; 1981 c 346 s 139]

79.50 PURPOSES.

The purposes of chapter 79 are to:

(a) Promote public welfare by regulating insurance rates so that premiums are not excessive, inadequate, or unfairly discriminatory;

(b) Promote quality and integrity in the data bases used in workers' compensation insurance ratemaking;

(c) Prohibit price fixing agreements and anticompetitive behavior by insurers;

(d) Promote price competition and provide rates that are responsive to competitive market conditions;

(e) Provide a means of establishment of proper rates if competition is not effective;

(f) Define the function and scope of activities of data service organizations;

(g) Provide for an orderly transition from regulated rates to competitive market conditions; and

(h) Encourage insurers to provide alternative innovative methods whereby employers can meet the requirements imposed by section 176.181.

History: 1981 c 346 s 21

79.51 RULES.

Subdivision 1. **Adoption; when.** The commissioner shall adopt rules to implement provisions of chapter 79. The rules shall be finally adopted after May 1, 1982. By January 15, 1982, the commissioner shall provide the legislature a description and explanation of the intent and anticipated effect of the rules on the various factors of the rating system.

Subd. 2. **Transition period; rules govern.** Insurance rates from July 1, 1983, to December 31, 1985, shall be determined in accordance with rules adopted by the commissioner. The rules shall require (1) that a hearing be held pursuant to the provisions of section 79.071 to consider any petition requesting modification of rates and (2) that following the hearing the commissioner shall adopt a schedule of rates.

Subd. 3. **Rules; subject matter.** (a) The commissioner in issuing rules shall consider:

(1) Data reporting requirements, including types of data reported, such as loss and expense data;

(2) Experience rating plans;

(3) Retrospective rating plans;

(4) General expenses and related expense provisions;

(5) Minimum premiums;

(6) Classification systems and assignment of risks to classifications;

(7) Loss development and trend factors;

(8) The workers' compensation reinsurance association;

(9) Restrictions, prohibitions, and requirements with respect to the activities of the workers' compensation insurers rating association of Minnesota during the period from July 1, 1983 to January 1, 1986;

(10) Requiring substantial compliance with the rules mandated by this section as a condition of workers' compensation carrier licensure;

(11) Imposing limitations on the functions of workers' compensation data service organizations consistent with the introduction of competition;

(12) The rules contained in the workers' compensation rating manual adopted by the workers' compensation insurers rating association; and

(13) Any other factors that the commissioner deems relevant to achieve the purposes of chapter 79.

(b) The rules shall provide for the following:

(1) Competition in workers' compensation insurance rates in such a way that the advantages of competition are introduced with a minimum of employer hardship during the transition period;

(2) Adequate safeguards against excessive or discriminatory rates in workers' compensation during the transition period;

(3) Encouragement of workers' compensation insurance rates which are as low as reasonably necessary, but shall make provision against inadequate rates, insolvencies and unpaid benefits;

(4) Assurances that employers are not unfairly relegated to the assigned risk pool;

(5) Requiring all appropriate data and other information from insurers for the purpose of issuing rules and making legislative recommendations pursuant to this section; and

(6) Preserving a framework for risk classification, data collection, and other appropriate joint insurer services where these will not impede the introduction of competition in premium rates.

(c) The rules shall expire on January 1, 1986.

Subd. 4. **Advisory committee.** The commissioner shall appoint an advisory committee which shall offer recommendations regarding rulemaking under this section. The advisory committee shall include representatives of insurers, employers, and employees.

History: 1981 c 346 s 22

79.52 DEFINITIONS.

Subdivision 1. **Generally.** The following words or phrases shall have the meanings ascribed to them for the purposes of chapter 79, unless the context clearly indicates that a different meaning is intended.

Subd. 2. **Market.** "Market" means any reasonable grouping or classification of employers.

Subd. 3. **Data service organization.** "Data service organization" means any entity which has ten or more members or is controlled directly or indirectly by ten or more insurers and is engaged in collecting data for use in insurance ratemaking or other activities permitted by chapter 79. Affiliated members or insurers shall be counted as a single unit for the purpose of this definition. The workers' compensation insurers rating association of Minnesota shall be considered a data service organization.

Subd. 4. **Classification plan; classification.** "Classification plan" or "classification" means the plan, system, or arrangement for rating insurance policyholders.

Subd. 5. **Rates.** "Rates" means the cost of insurance per exposure base unit.

Subd. 6. **Base premium.** "Base premium" means the amount of premium which an employer would pay for insurance derived by applying rates to an exposure base prior to the application of any merit rating or discount factors.

Subd. 7. **Premium.** "Premium" means the price charged to an insured for insurance for a specified period of time, regardless of the timing of actual payments.

Subd. 8. **Discount factor.** "Discount factor" means any factor which is applied to the base premium and which is based upon insurer expenses or other factors not related to the risk of loss.

Subd. 9. **Merit rating.** "Merit rating" means a system or form of rating by which base premium is modified on the basis of loss experience or other factors which are reasonably related to loss or risk of loss and which may be reasonably affected by the action or activities of the insured. The sensitivity of a merit rating system to loss experience may vary by the size of risk. Merit rating shall include both prospective and retrospective methods for modifying base premium.

Subd. 10. **Loss development factors.** "Loss development factors" means factors applied to recorded incurred losses to estimate the amount of ultimate loss payments that will have been made for losses during the applicable period when all claims are paid.

Subd. 11. **Trend or trending.** "Trend" or "trending" means any procedure employing data for the purpose of projecting or forecasting the future value of that data or other data, or the factors resulting from such a procedure.

Subd. 12. **Interested party.** "Interested party" means any person, or association acting on behalf of its members, directly affected by a change in the schedule of rates and includes the staff of the insurance division.

Subd. 13. **Insurer.** "Insurer" means any insurer licensed to transact the business of workers' compensation insurance in this state.

Subd. 14. **Insurance.** "Insurance" means workers' compensation insurance.

Subd. 15. **Rating plan.** "Rating plan" means every manual, and every other rule including discount factors and merit rating necessary for the calculation of an insured's premium from an insurer's rates. An insurer may choose to adopt for use the rating plan of the data service organization in which it maintains membership.

History: 1981 c 346 s 23

79.53 PREMIUM CALCULATION.

Each insurer shall establish premiums to be paid by an employer according to its filed rates and rating plan as follows:

Rates shall be applied to an exposure base to yield a base premium which may be further modified by merit rating, premium discounts, and other appropriate factors contained in the rating plan of an insurer to produce premium. Nothing in this chapter shall be deemed to prohibit the use of any premium, provided the premium is not excessive, inadequate or unfairly discriminatory.

History: 1981 c 346 s 24

NOTE: This section is effective July 1, 1983. See Laws 1981, Chapter 346, Section 146.

79.54 COMPETITIVE MARKET PRESUMPTION.

A competitive market is presumed to exist until the commissioner, after a hearing on the record, determines that a reasonable degree of competition does not exist and issues an order to that effect. The order shall include the conditions and procedures under which a determination of insufficient competition shall expire.

History: 1981 c 346 s 25

NOTE: This section is effective July 1, 1983. See Laws 1981, Chapter 346, Section 146.

79.55 STANDARDS FOR RATES.

Subdivision 1. **General standards.** Premiums shall not be excessive, inadequate, or unfairly discriminatory.

Subd. 2. **Excessiveness.** No premium is excessive in a competitive market. In the absence of a competitive market, premiums are excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business.

Subd. 3. **Inadequacy.** Premiums are inadequate if, together with the investment income associated with an insurer's Minnesota workers' compensation insurance business, they are clearly insufficient to sustain projected losses and expenses of the insurer and (a) if their continued use could lead to an insolvent situation for the insurer; or (b) if their use destroys or lessens competition or is likely to destroy or lessen competition.

Subd. 4. **Unfair discrimination.** Premiums are unfairly discriminatory if differentials for insureds fail to reasonably reflect the differences in expected losses and expenses to the insurer attributable to the insureds. Rates are not unfairly discriminatory solely because different premiums result for insureds with like loss exposures but different expense factors, or like expense factors but different loss exposures, provided that rates reflect the differences with reasonable accuracy.

History: 1981 c 346 s 26

NOTE: This section is effective July 1, 1983. See Laws 1981, Chapter 346, Section 146.

79.56 FILING RATES AND RATING INFORMATION.

Subdivision 1. **After effective date.** Each insurer shall file with the commissioner a complete copy of its rates and rating plan, and all changes and amendments thereto, within 15 days after their effective dates. An insurer need not file a rating plan if it uses a rating plan filed by a data service organization. If an insurer uses a rating plan of a data service organization but deviates from it, then all deviations must be filed by the insurer.

Subd. 2. **Before effective date.** The commissioner may order an insurer to file rates at least 30 days before the effective date of the rates (a) if the commissioner determines, based upon reasonable evidence, that an order is appropriate because of the insurer's financial condition or (b) due to a prior finding of unfairly discriminatory rating practices; or (c) due to a prior finding of inadequate rates. The order may require that supplementary rate and supporting information be included in a filing.

Subd. 3. **Penalties.** Any insurer using a rate or a rating plan which has not been filed shall be subject to a fine of up to \$100 for each day the failure to file continues. The commissioner may, after a hearing on the record, find that the failure is willful. A willful failure to meet filing requirements shall be punishable by a fine of up to \$500 for each day during which a willful failure continues. These penalties shall be in addition to any other penalties provided by law.

Subd. 4. **Public inspection.** All filings shall be open to public inspection during normal business hours at the offices of the insurance division.

History: 1981 c 346 s 27

79.57 FILING RATES; NONCOMPETITIVE MARKET.

Upon making a determination that a market is not competitive, the commissioner shall require rates for use in that market to be filed 30 days prior to their effective date. The filing shall include, in a form prescribed by the commissioner, an explanation of the rates and any data supporting the use of the rates which are not on file with a data service organization.

The commissioner may issue an order for a hearing at any time prior to the effective date of the rates and the rates shall not become effective until the commissioner has ruled on the rates following the hearing.

The commissioner may disapprove the rates subsequent to their effective date, except that rates so disapproved shall remain effective until the commissioner issues an order following a hearing.

History: 1981 c 346 s 28

NOTE: This section is effective July 1, 1983. See Laws 1981, Chapter 346, Section 146.

79.58 DISAPPROVAL OF RATES OR RATING PLANS.

Subdivision 1. **Rates.** A rate filed by an insurer may be disapproved by the commissioner subsequent to its effective date. Following a disapproval and prior to a refileing the insurer shall use the rates as reasonably established by the commissioner.

The commissioner shall disapprove a rate if, after a hearing on the record, he finds that:

- (a) The premium is inadequate or unfairly discriminatory; or
- (b) A competitive market for workers' compensation does not exist and rates are excessive; or
- (c) The insurer failed to comply with filing requirements.

A rehearing shall be held within 30 days of any disapproval under this section at the request of the insurer whose rates are disapproved.

Subd. 2. **Rating plans.** The commissioner may disapprove a rating plan of a data service organization if, after a hearing, the commissioner finds that it is unfairly discriminatory. Any order of disapproval shall require the data service organization to use an alternative rating plan until approval of a rating plan by the commissioner. The commissioner shall not approve any rating plan based upon any data other than Minnesota data, except that other data may be utilized as a supplement to Minnesota data when the commissioner determines that an exceptional case requires such data to establish the statistical credibility of an occupational classification.

History: 1981 c 346 s 29

NOTE: This section is effective July 1, 1983. See Laws 1981, Chapter 346, Section 146.

79.59 INSURERS AND DATA SERVICE ORGANIZATIONS; PROHIBITED ACTIVITIES.

Subdivision 1. **Monopolization.** No insurer or data service organization shall attempt to monopolize or combine or conspire with any other person to monopolize the business of insurance.

Subd. 2. **Agreement prohibited.** No insurer shall agree with any other insurer or with a data service organization to adhere to or to use any rate, rating plan, rating schedule, rating rule, or underwriting rule except as specifically authorized by chapter 79 or for the purpose of creating experience modifications for employers with employees in more than one state.

Subd. 3. **Trade restraint.** No insurer or data service organization shall make an agreement with any other insurer, data service organization, or other person which has the purpose or the effect of restraining trade or of substantially lessening competition.

Subd. 4. **Exceptions.** The fact that insurers writing not more than 25 percent of the workers' compensation premiums in Minnesota use the same rates, rating plans, rating schedules, rating rules, underwriting rules, or similar materials shall not alone constitute a violation of subdivisions 1 or 2.

Two or more insurers under common ownership or operating under common management or control may act in concert between or among themselves with respect to matters authorized under chapter 79 as if they constituted a single insurer, provided that the rating plan of such insurers shall be considered to be a single plan for the purposes of determining unfair discrimination.

Subd. 5. **Additional prohibition.** In addition to other prohibitions contained in this chapter, no data service organization shall:

(a) Refuse to supply any service for which it is licensed or any data, except for data identifiable to an individual insurer, to any insurer authorized to do business in this state which offers to pay the usual compensation for the service or data;

(b) Require the purchase of any specific service as a condition to obtaining any other services sought;

(c) Participate in the development or distribution of rates, rating plans, or rating rules except as specifically authorized by this chapter or by rules adopted pursuant to this chapter; or

(d) Refuse membership to any licensed insurer.

History: 1981 c 346 s 30

NOTE: This section is effective July 1, 1983. See Laws 1981, Chapter 346, Section 146.

79.60 INSURERS; REQUIRED AND PERMITTED ACTIVITY.

Subdivision 1. **Required activity.** Each insurer shall perform the following activities:

(a) Maintain membership in and report loss experience data to a licensed data service organization in accordance with the statistical plan and rules of the organization as approved by the commissioner;

(b) Establish a plan for merit rating which shall be consistently applied to all insureds, provided that members of a data service organization may use merit rating plans developed by that data service organization;

(c) Provide an annual report to the commissioner containing the information and prepared in the form required by the commissioner; and

(d) Keep a record of the premiums and losses paid under each workers' compensation policy written in Minnesota in the form required by the commissioner.

Subd. 2. Permitted activity. In addition to any other activities not prohibited by chapter 79, insurers may:

(a) Through licensed data service organizations, individually, or with insurers commonly owned, managed, or controlled, conduct research and collect statistics to investigate, identify, and classify information relating to causes or prevention of losses;

(b) Develop and use classification plans and rates based upon any reasonable factors; and

(c) Develop rules for the assignment of risks to classifications.

History: 1981 c 346 s 31

NOTE: This section is effective July 1, 1983. See Laws 1981, Chapter 346, Section 146.

79.61 DATA SERVICE ORGANIZATIONS; REQUIRED AND PERMITTED ACTIVITY.

Subdivision 1. Required activity. Any data service organization shall perform the following activities:

(a) File statistical plans, including classification definitions, amendments to the plans, and definitions, with the commissioner for approval, and assign each compensation risk written by its members to its approved classification for reporting purposes;

(b) Establish requirements for data reporting and monitoring methods to maintain a high quality data base;

(c) Prepare and distribute a periodic report, in a form prescribed by the commissioner, on ratemaking including, but not limited to the following elements:

(i) development factors and alternative derivations;

(ii) trend factors and alternative derivations and applications;

(iii) pure premium relativities for the approved classification system for which data are reported, provided that the relativities for insureds engaged in similar occupations and presenting substantially similar risks shall, if different, differ by at least ten percent; and

(iv) an evaluation of the effects of changes in law on loss data.

The report shall also include explicit discussion and explanation of methodology, alternatives examined, assumptions adopted, and areas of judgment and reasoning supporting judgments entered into, and the effect of various combinations of these elements on indications for modification of an overall pure premium rate level change. The pure premium relativities and rate level indications shall not include a loading for expenses or profit and no expense or profit data or recommendations relating to expense or profit shall be included in the report or collected by a data service organization;

(d) Collect, compile, summarize, and distribute data from members or other sources pursuant to a statistical plan approved by the commissioner;

(e) Prepare merit rating plan and calculate any variable factors necessary for utilization of the plan. Such a plan may be used by any of its members, at the option of the member provided that the application of a plan shall not result in rates that are unfairly discriminatory;

(f) Provide loss data specific to an insured to the insured at a reasonable cost;

(g) Distribute information to an insured or interested party that is filed with the commissioner and is open to public inspection; and

(h) Assess its members for operating expenses on a fair and equitable basis.

Subd. 2. **Permitted activity.** In addition to any other activities not prohibited by chapter 79, any data service organization may:

(a) Collect and analyze data in order to investigate, identify, and classify information relating to causes or prevention of losses;

(b) Make inspections for the sole purpose of reporting and maintaining data quality;

(c) Contract with another data service organization to fulfill any of the above requirements; and

(d) Prepare and file with the commissioner a rating plan for use by any of its members, provided that no member may be required to use any part of the plan.

History: 1981 c 346 s 32

NOTE: This section is effective July 1, 1983. See Laws 1981, Chapter 346, Section 146.

79.62 DATA SERVICE ORGANIZATIONS; LICENSING, EXAMINATION.

Subdivision 1. **License required.** No data service organization shall provide any service and no insurer shall use the services of a data service organization unless the organization is licensed by the commissioner.

Subd. 2. **Procedure; application.** A data service organization shall apply for a license in a form and manner prescribed by the commissioner. The application of a data service organization shall include:

(a) A copy of its constitution, articles of incorporation, bylaws, and other rules pertaining to the conduct of its business;

(b) A plan and narrative describing how it will perform the activities required by section 79.61;

(c) A statement showing its technical qualifications; and

(d) Any other information that the commissioner may reasonably require.

Subd. 3. **Issuance.** The commissioner, upon finding that the applicant organization is qualified to provide the services required and proposed, or has contracted with a licensed data service organization to purchase these services which are required by chapter 79 but are not provided directly by the applicant, and that all requirements of law are met, shall issue a license. Licenses shall remain in effect until the licensee withdraws from business or until the license is suspended or revoked.

Subd. 4. **Suspension; revocation.** The commissioner may, after a hearing on the record, revoke or suspend the license of a data service organization if he finds that the organization is not in compliance with the requirements of chapter 79 or rules issued thereunder.

Subd. 5. **Licensee examination.** The commissioner may examine any licensed data service organization to determine whether its activities and practices comply with law. The cost of the examination shall be paid by the examined organization.

History: 1981 c 346 s 33

NOTE: This section is effective July 1, 1982. See Laws 1981, Chapter 346, Section 146.

79.63 ASSIGNED RISK PLAN.

Subdivision 1. **Administration.** The commissioner shall appoint a licensed data service organization to administer the assigned risk plan. The appointed data service organization shall submit to the commissioner for approval a plan and rules for administering the assigned risk plan, including a method or formula by which the organization is to be paid for administrative services.

Subd. 2. **Rejection; notice.** An insurer that refuses to write insurance for an applicant shall furnish the applicant a written notice of refusal and shall file a copy of the notice of refusal with the data service organization appointed pursuant to subdivision 1. Servicing insurers designated pursuant to subdivision 3 shall accept and insure any applicant for workers' compensation insurance assigned pursuant to subdivision 3.

Subd. 3. **Assignment.** An insurer or insurers shall be designated by the data service organization appointed pursuant to subdivision 1 to issue a policy of workers' compensation insurance to an applicant which has been refused insurance. A policy shall contain the usual and customary provisions of workers' compensation insurance policies, but for which undertaking all insurers doing workers' compensation business in this state shall be reinsurers among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by each insurer bears to the total compensation insurance written in this state during that calendar year by all insurers.

An insurer that issues a policy pursuant to this section shall receive an expense allowance which shall be adequate for services rendered, as approved by the commissioner.

Subd. 4. **Penalty.** The commissioner may revoke the license of an insurer or agent for refusing or failing to provide an applicant with written refusal pursuant to subdivision 2 or for any other violation of this section or of the approved rules of a data service organization.

Subd. 5. **Assigned risk rates.** Insureds served by the workers' compensation insurance assigned risk plan shall be charged premiums based upon a rating plan, rates, and a merit rating plan adopted by the commissioner by rule. This rating plan shall include a feature by which rates shall vary in relation to the number or proportion of insureds in the assigned risk plan in the preceding calendar year. This relationship shall be such that assigned risk rates shall vary upward as the number or proportion of insureds in the assigned risk plan decreases and downward as the number or proportion increases. Assigned risk premiums shall not be lower than the rates generally charged by insurers for the business.

History: 1981 c 346 s 34

NOTE: This section is effective July 1, 1983. See Laws 1981, Chapter 346, Section 146.