

CHAPTER 60A

INSURANCE DIVISION

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60A.02 DEFINITIONS.

[For text of subs 1 to 6, see M.S.1982]

Subd. 7. **Insurance agent.** An "insurance agent" is a person acting under express authority from, and an appointment pursuant to section 60A.17 by, an insurer and on its behalf to solicit insurance, or to appoint other agents to solicit insurance, or to write and countersign policies of insurance, or to collect premiums therefor within this state, or to exercise any or all these powers when so authorized by the insurer. The term "person" includes a natural person, a partnership, or a corporation.

[For text of subs 9 to 18, see M.S.1982]

History: 1983 c 328 s 1

60A.03 INSURANCE COMMISSIONER.

[For text of subs 1 to 3, see M.S.1982]

Subd. 5. **Examination fees and expenses.** When any visitation, examination, or appraisal is made by order of the commissioner, the company being examined, visited, or appraised, including fraternal, township mutuals, reciprocal exchanges, nonprofit service plan corporations, health maintenance organizations, vendors of risk management services licensed under section 60A.23, or self-insurance plans or pools established under section 176.181 or 471.982, shall pay to the insurance division the necessary expenses of the persons engaged in the examination, visit, or appraisal plus the per diem salary fees of the employees of the division of insurance who are conducting or participating in the examination, visitation, or appraisal. The per diem salary fees may be based upon the approved examination fee schedules of the National Association of Insurance Commissioners or otherwise determined by the commissioner. All of these fees and expenses must be paid into the insurance division revolving fund.

[For text of subs 6 and 8, see M.S.1982]

History: 1983 c 328 s 2

60A.05 SUSPENSION OF AUTHORITY.

If the commissioner believes, upon examination or other evidence, that a foreign or domestic insurance company is in an unsound condition or, if a life insurance company, that its actual funds are less than its liabilities, or that it is insolvent; or if a foreign or domestic insurance company has failed to comply with the law, or if it, its officers, or agents, refuse to submit to examination, or to perform any legal obligation in relation thereto, and he believes protection of the interests of policyholders, claimants, or the general public requires summary

action, he may revoke or suspend all certificates of authority granted to it or its agents. He shall cause notification of his action to be published in a newspaper authorized to publish annual statements of insurance companies, and no new business shall thereafter be done by it, or its agents, in this state while the default or disability continues, nor until its authority to do business is restored by the commissioner. The revocation or suspension is effective ten days after notice to the company unless the ground for revocation or suspension relates only to the financial condition or soundness of the company or to a deficiency in its assets, in which case revocation and suspension is effective upon notice to the company. The notice shall specify the particulars of the supposed violation. The district court of any county, upon petition of the company, shall summarily hear and determine the question whether the ground for revocation or suspension exists. The court shall make any proper order or decree and enforce it by any appropriate process. If the order or decree is adverse to the petitioning company, an appeal may be taken as in other civil cases. In the case of appeal, the commissioner may issue his order revoking the right of the petitioning company to do business in this state until the final determination of the question. Neither this section nor any proceedings under it shall affect any criminal prosecutions or proceeding for the enforcement of any fine, penalty, or forfeiture.

History: 1983 c 247 s 28

60A.07 AUTHORIZATION AND REQUIREMENTS.

[For text of subs 1 to 7, see M.S.1982]

Subd. 8. **Special provisions as to mutual companies.** (1) **Amendment of articles or certificate of incorporation.** The certificate of incorporation or articles of association of any domestic insurance company without capital stock, now or hereafter organized and existing under the laws of this state, may be amended in respect to any matter which an original certificate of incorporation or articles of association of a corporation of the same kind might lawfully have contained by the adoption of a resolution specifying the proposed amendment, at a regular meeting of the members thereof or at a special meeting called for that expressly stated purpose, by the affirmative vote of a majority of the members present, in person or by proxy, at the meeting, and by causing the resolution to be embraced in a certificate duly executed by its president and secretary or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner prescribed by law for the execution, approval, filing, recording, and publishing of a like original certificate of incorporation or articles of association.

(2) **Renewal of corporate existence.** Any domestic insurance company or corporation having no capital stock; heretofore or hereafter organized and existing under the laws of this state, whose period of duration has expired or is about to expire, may, on or before the date of the expiration, or within six months after the date of expiration, renew its corporate existence from the date of such expiration for any period permitted by the laws of this state, by the adoption of a resolution to that effect by the affirmative vote of three-fourths of the members present, in person or by proxy, at a regular meeting of the members, or at any special meeting called for that expressly stated purpose, and by causing the resolution to be embraced in a certificate duly executed by its president and secretary or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner prescribed by law for the execution,

approval, filing, recording, and publishing of an original certificate of incorporation or articles of association.

(3) **Bylaws.** The bylaws of any domestic insurance corporation without capital stock, in cases where the bylaws must be adopted or approved by the members thereof, may be adopted, altered, or amended at a regular meeting of the members thereof, or at a special meeting called for that expressly stated purpose, by the affirmative vote of a majority of the members present, in person or by proxy, at the meeting.

(4) **Conversion of a domestic mutual into a stock insurance corporation.** A domestic mutual corporation may be converted into a stock insurance corporation as follows:

(a) **Action by board of directors.** The board of directors shall adopt a plan of conversion.

(b) **Plan of conversion.** (i) The plan of conversion shall provide that, upon consummation of the conversion, each policyholder at the date of the passage of the resolution by the board of directors shall be entitled to such shares of stock of the new company as his equitable share of the surplus of the company will purchase. This equitable share shall be determined by independent certified auditors or consulting actuaries and shall be subject to approval by the commissioner. If a policyholder's equitable share of the surplus of the company produces a fractional share, the policyholder shall be given the option of either receiving the value of the fractional share in cash or of purchasing the fractional part of a share that will entitle him to a full share.

(ii) No shares of the corporation being organized shall be issued or subscribed for, formally or informally, directly or indirectly during the conversion except as authorized under subparagraph (i).

(iii) The corporation shall not pay compensation or remuneration of any kind to any person in connection with the proposed conversion, except at reasonable rates for printing costs, and for legal and other professional fees for services actually rendered.

(iv) The plan of conversion shall include a copy of the proposed articles of incorporation which shall comply with the requirements of chapter 300. Except as otherwise specifically provided, the corporation resulting from conversion under this section shall be deemed to have been organized as of the date of issuance of the initial certificate of authority to the mutual corporation being converted.

(c) **Approval by policyholders.** Within 30 days after its adoption by the board of directors, the plan of conversion shall be submitted to the policyholders for approval by the affirmative vote of a majority of the policyholders entitled to vote, in the manner prescribed by subparagraph (1). Every policyholder as of the date of the adoption under subparagraph (a) shall be entitled to one vote for each policy held by him. Only such policyholders shall be entitled to vote.

(d) **Approval by the commissioner.** (i) Within 30 days after its adoption by the policyholders, the plan of conversion shall be submitted to the commissioner with an application for his approval.

(ii) The commissioner shall not approve if the value of single shares is set at a figure that substantially burdens policyholders who wish to purchase a fractional share under subparagraph (b)(i).

(iii) If the commissioner finds that the plan of conversion has been duly approved by the policyholders, that the conversion would not violate any law and would not be contrary to the interests of the policyholders, he shall approve the plan of conversion and shall issue a new certificate of authority to the corporation.

(e) **Conversion.** After filing an amendment of the articles of incorporation as provided by chapter 300, the corporation shall become a stock corporation and shall no longer be a mutual corporation, and the board of directors shall execute the plan of conversion.

(f) **Securities regulation.** The filing with the department of securities of a certified copy of the plan of conversion as adopted by the policyholders and approved by the commissioner shall constitute registration under chapter 80A, of the securities authorized to be issued to policyholders thereunder.

[For text of subds 9 to 11, see M.S.1982]

History: 1983 c 216 art 1 s 15

60A.11 INVESTMENTS FOR DOMESTIC COMPANIES.

[For text of subds 1 and 7, see M.S.1982]

Subd. 9. **General considerations.** The following considerations apply in the interpretation of this section:

(a) This section applies to the investments of insurance companies other than life insurance companies;

(b) The purpose of this section is to protect and further the interests of policyholders, claimants, creditors and the public by providing standards for the development and administration of programs for the investment of the assets of domestic companies. These standards and the investment programs developed by companies must take into account the safety of company's principal, investment yield and growth, stability in the value of the investment, the liquidity necessary to meet the company's expected business needs, and investment diversification;

(c) All financial terms relating to insurance companies have the meanings assigned to them under statutory accounting methods. All financial terms relating to noninsurance companies have the meanings assigned to them under generally accepted accounting principles;

(d) Investments must be valued in accordance with the valuation procedures established by the National Association of Insurance Commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances;

(e) A company may elect to hold an investment which qualifies under more than one subdivision, under the subdivision of its choice. Nothing herein prevents a company from electing to hold an investment under a subdivision different from the one in which it previously held the investment; and

(f) An investment which qualifies under any provision of the law governing investments of insurance companies when acquired will continue to be a qualified investment for as long as it is held by the insurance company.

Subd. 10. **Definitions.** The following terms have the meaning assigned in this subdivision for purposes of this section and section 60A.111:

(a) "Admitted assets," for purposes of computing percentage limitations on particular types of investments, means the assets as shown by the company's annual statement, required by section 60A.13, as of the December 31 immediately preceding the date the company acquires the investment;

(b) "Clearing corporation" means The Depository Trust Company or any other clearing agency registered with the federal securities and exchange commission pursuant to the Federal Securities Exchange Act of 1934, section 17A,

Euro-clear Clearance System Limited and CEDEL S.A., and, with the approval of the commissioner, any other clearing corporation as defined in section 336.8-102;

(c) "Control" has the meaning assigned to that term in, and must be determined in accordance with, section 60D.01, subdivision 4;

(d) "Custodian bank" means a bank or trust company or a branch of a bank or trust company that is acting as custodian and is supervised and examined by state or federal authority having supervision over the bank or trust company or with respect to a company's foreign investments only by the regulatory authority having supervision over banks or trust companies in the jurisdiction in which the bank, trust company, or branch is located, and specifically includes Euro-clear Clearance System Limited and CEDEL S.A., acting as custodians;

(e) "Issuer" means the corporation, business trust, governmental unit, partnership, association, individual or other entity which issues or on behalf of which is issued any form of obligation;

(f) "Member bank" means a national bank, state bank or trust company which is a member of the Federal Reserve System;

(g) "National securities exchange" means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada;

(h) "Obligations" include bonds, notes, debentures, transportation equipment certificates, repurchase agreements, bank certificates of deposit, time deposits, bankers' acceptances, and other obligations for the payment of money not in default as to payments of principal and interest on the date of investment, whether constituting general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment. Leases are considered obligations if the lease is assigned for the benefit of the company and is non-terminable by the lessee or lessees thereunder upon foreclosure of any lien upon the leased property, and rental payments are sufficient to amortize the investment over the primary lease term;

(i) "Qualified assets" means the sum of (1) all investments qualified in accordance with this section other than investments in affiliates and subsidiaries, (2) investments in obligations of affiliates as defined in section 60D.01, subdivision 2 secured by real or personal property sufficient to qualify the investment under subdivision 19 or 23, (3) qualified investments in subsidiaries, as defined in section 60D.01, subdivision 9, on a consolidated basis with the insurance company without allowance for goodwill or other intangible value, and (4) cash on hand and on deposit, agent's balances or uncollected premiums not due more than 90 days, assets held pursuant to section 60A.12, subdivision 2, investment income due and accrued, funds due or on deposit or recoverable on loss payments under contracts of reinsurance entered into pursuant to section 60A.09, premium bills and notes receivable, federal income taxes recoverable, and equities and deposits in pools and associations;

(j) "Qualified net earnings" means that the net earnings of the issuer after elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than one and one-quarter times its average annual fixed charges applicable to the period;

(k) "Required liabilities" means the sum of (1) total liabilities as required to be reported in the company's most recent annual report to the commissioner of insurance of this state, (2) for companies operating under the stock plan, the

minimum paid-up capital and surplus required to be maintained pursuant to section 60A.07, subdivision 5a, (3) for companies operating under the mutual or reciprocal plan, the minimum amount of surplus required to be maintained pursuant to section 60A.07, subdivision 5b, and (4) the amount, if any, by which the company's loss and loss adjustment expense reserves exceed 350 percent of its surplus as it pertains to policyholders as of the same date. In addition to the required amounts pursuant to clauses (1) to (4), the commissioner may, at his or her discretion, require that the amount of any apparent reserve deficiency that may be revealed by one to five year loss and loss adjustment expense development analysis for the five years reported in the company's most recent annual statement to the commissioner be added to required liabilities; and

(1) "Unrestricted surplus" means the amount by which qualified assets exceed 110 percent of required liabilities.

[For text of subs 11 to 13, see M.S.1982]

Subd. 14. **Certain bank obligations.** (a) Certificates of deposits, time deposits, and bankers' acceptances issued by and other obligations guaranteed by any bank organized under the laws of the United States or any state thereof or of the Dominion of Canada or any province thereof. A company may not invest more than five percent of its admitted assets in the obligations of any one bank and may not hold at any time more than ten percent of the outstanding obligations of any one bank. A letter of credit issued by a member bank which qualifies under the guidelines of the National Association of Insurance Commissioners as a clean, irrevocable letter of credit which contains an "evergreen clause," may be accepted as a guaranty of other investments and in lieu of cash to secure loans of securities.

(b) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development Bank, the Export-Import Bank, the World Bank or any United States government sponsored organization of which the United States is a member, if the principal and interest is payable in United States dollars. A company may not invest more than five percent of its total admitted assets in the obligations of any one of these banks or organizations, and may not invest more than a total of 15 percent of its total admitted assets in the obligations of all these banks and organizations.

[For text of subs 15 to 17, see M.S.1982]

Subd. 18. **Stocks.** Stocks issued or guaranteed by any corporation incorporated under the laws of the United States or any state of the United States, or the laws of Canada or any province of Canada, or stocks or stock equivalents listed or regularly traded on a national securities exchange on the following conditions:

(a) A company may invest in preferred stocks traded on a national securities exchange and may also invest in other preferred stocks if the issuer has qualified net earnings and if current or cumulative dividends are not then in arrears;

(b) A company may invest in common stocks, common stock equivalents or securities convertible into common stock or common stock equivalents of any corporation or business trust, provided:

(1) The common stock, common stock equivalent or convertible issue is publicly traded on a national securities exchange, or the corporation or business trust has qualified net earnings;

(2) A company may invest up to two percent of its admitted assets in common stock, common stock equivalents or convertible issues which do not meet the requirements of clause (1);

(3) At no time may a company acquire or hold voting control of a corporation or business trust through its ownership of common stock, common stock equivalents or other securities, except that a company may organize and hold, or acquire and hold more than 50 percent of the common stock of (a) a corporation providing investment advisory, banking, management or sale services to an investment company or to an insurance company, (b) a data processing or computer service company, (c) a mortgage loan corporation engaged in the business of making, originating, purchasing or otherwise acquiring or investing in, and servicing or selling or otherwise disposing of loans secured by mortgages on real property, (d) a corporation if its business is owning and managing or leasing personal property, (e) a corporation providing securities underwriting services or acting as a securities broker or dealer, (f) a real property holding, developing, managing, brokerage or leasing corporation, (g) any domestic or foreign insurance company, (h) any alien insurance company, if the organization or acquisition and the holding of the company is subject to the prior approval of the insurance commissioner, which approval must be given upon good cause shown and is deemed to have been given if the commissioner does not disapprove of the organization or acquisition within 30 days after notification by the company, (i) an investment subsidiary to acquire and hold investments which the company could acquire and hold directly, if the investments of the subsidiary are considered direct investments for purposes of this chapter and are subject to the same percentage limitations, requirements and restrictions as are contained herein, or (j) any corporation whose business has been approved by the commissioner as complementary or supplementary to the business of the company. The percentage of common stock may be less than 50 percent if the prior approval of the commissioner is obtained. A company may invest up to an aggregate of ten percent of its admitted assets under subclauses (a) to (e) of this clause (3);

(4) A company may invest in the common stock of any corporation owning investments in foreign companies used for purposes of legal deposit, when the insurance company transacts business therein direct or as reinsurance;

(c) A company may invest in warrants and rights granted by an issuer to purchase stock of the issuer if the stock of the issuer at the time of the acquisition of the warrant or right to purchase, would qualify as an investment under paragraph (a) or (b) whichever is applicable. A company shall not invest more than two percent of its assets under this paragraph. Any stock actually acquired through the exercise of a warrant or right to purchase may be included in paragraph (a) or (b), whichever is applicable, only if the stock meets the standards prescribed in the clause at the time of acquisition of the stock; and

(d) A company may invest in the securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the Federal Investment Company Act of 1940 as from time to time amended, provided that the aggregate of all these investments other than in securities of money market mutual funds or mutual funds investing primarily in United States government securities, determined at cost, shall not exceed five percent of its admitted assets; investments may be made under this clause without regard to the percentage limitations applicable to investments in voting securities.

(e) A company may invest in any proportion of the shares or investment units of an investment company or investment trust, whether or not registered under the Federal Investment Company Act of 1940, which is managed by an insurance company, member bank, trust company regulated by state or federal authority or an investment manager or adviser registered under the Federal Investment Advis-

ers Act of 1940 or qualified to manage the investments of an investment company registered under the Federal Investment Company Act of 1940, provided that the investments of the investment company or investment trust are qualified investments made under this section and that the articles of incorporation, bylaws, trust agreement, investment management agreement, or some other governing instrument limits its investments to investments qualified under this section.

[For text of subd 19, see M.S.1982]

Subd. 20. **Real estate.** (a) Except as provided in paragraphs (b) to (d), a company may only acquire, hold, and convey real estate which:

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

(2) has been conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

(3) has been purchased at sales on judgments, decrees or mortgages obtained or made for the debts; and

(4) is subject to a contract for deed under which the company holds the vendor's interest to secure the payments the vendee is required to make thereunder.

All the real estate specified in clauses (1) to (3) must be sold and disposed of within five years after the company has acquired title to it, or within five years after it has ceased to be necessary for the accommodation of the company's business, and the company must not hold this property for a longer period unless the company elects to hold the real estate under another section, or unless it procures a certificate from the commissioner of insurance that its interest will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to the time the commissioner directs in the certificate.

(b) A company may acquire and hold real estate for the convenient accommodation of its business.

(c) A company may acquire real estate or any interest in real estate, including oil and gas and other mineral interests, as an investment for the production of income, and may hold, improve or otherwise develop, subdivide, lease, sell and convey real estate so acquired directly or as a joint venture or through a limited or general partnership in which the company is a partner.

(d) A company may also hold real estate (1) if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this section, and (2) if the company expects the real estate so acquired to qualify under paragraph (b) or (c) above within five years after acquisition.

(e) A company may, after securing the approval of the commissioner, acquire and hold real estate for the purpose of providing necessary living quarters for its employees. The company must dispose of the real estate within five years after it has ceased to be necessary for that purpose unless the commissioner agrees to extend the holding period upon application by the company.

(f) A company may not invest more than 25 percent of its total admitted assets in real estate. The cost of any parcel of real estate held for both the accommodation of business and for the production of income must be allocated between the two uses annually. No more than three percent of its total admitted assets may be invested in real estate held under paragraph (e).

Subd. 21. **Foreign investments.** Obligations of and investments in foreign countries, on the following conditions:

(a) A company may acquire and hold any foreign investments which are required as a condition of doing business in the foreign country or necessary for the convenient accommodation of its foreign business. An investment is considered necessary for the convenient accommodation of the insurance company's foreign business only if it is demonstrably and directly related in size and purpose to the company's foreign insurance operations; and

(b) A company may also invest not more than a total of two percent of its admitted assets in any combination of:

(1) the obligations of foreign governments, corporations, or business trusts;

(2) obligations of federal, provincial, or other political subdivisions backed by the full faith and credit of the foreign governmental unit;

(3) or in the stocks or stock equivalents or obligations of foreign corporations or business trusts not qualifying for investment under subdivision 10, if the obligations, stocks or stock equivalents are listed or regularly traded on the London, Paris, Zurich, or Tokyo stock exchange or any similar regular securities exchange not disapproved by the commissioner within 30 days following notice from the company of its intention to invest in these securities.

[For text of subd 22, see M.S.1982]

Subd. 23. **Collateral loans.** Obligations adequately secured by a qualifying letter of credit issued by a member bank or by cash or by the pledge of any investment authorized by any of the preceding subdivisions if:

(a) The collateral is legally assigned or delivered to the company;

(b) The company has the right to declare the obligation immediately due and payable if the security thereafter depreciates to the point where the investment would not qualify under paragraph (c); provided, that additional qualifying security may be pledged to allow the investment to remain qualified;

(c) The collateral must at the time of delivery or assignment have a market value of at least, in the case of cash, equal to and, in all other cases, 1-1/4 times the amount of the unpaid balance of the obligations.

A company may not invest more than five percent of its total admitted assets under this subdivision.

Subd. 24. **Options.** (a) A company may sell exchange-traded call options against stocks or other securities owned by the company and may purchase exchange-traded call options in a closing transaction against a call option previously written by the company.

(b) A company may purchase or sell other exchange-traded call options and may sell or purchase exchange-traded put options only if, to the extent and on terms and conditions the commissioner determines to be consistent with the purposes of this section.

[For text of subds 25 and 26, see M.S.1982]

History: 1983 c 340 s 1-8

60A.111 QUALIFIED ASSETS TO REQUIRED LIABILITIES; RATIO.

[For text of subd 1, see M.S.1982]

Subd. 2. **Plan.** If the commissioner determines that the required liabilities of any company are greater than its qualified assets and that the combined financial resources of the insurance company members of any insurance holding company system of which the company is a member are not adequate to counterbalance

that fact, the commissioner may require the company to submit to the commissioner for his approval a plan by which the company undertakes to bring the ratio of its required liabilities to its qualified assets, expressed as a percentage, up to at least 100 percent within a reasonable period, usually not exceeding five years.

[For text of subd 3, see M.S.1982]

Subd. 4. [Repealed, 1983 c 340 s 18]

Subd. 4a. **Prohibition.** If the commissioner determines that the company does not have unrestricted surplus, the commissioner may prohibit that company from purchasing any asset which is not a qualified asset as defined in section 60A.11, unless a request is made of the commissioner and the request is not denied within 15 days. The commissioner may, in his discretion, exempt any insurer from the requirements of this subdivision.

[For text of subd 5, see M.S.1982]

Subd. 6. **Factors considered.** The commissioner, in exercising his discretion under this section, may take into consideration the size, the lines of business, and the dispersion of risks of the company, and the consolidated assets and surplus as regards policyholders of the other insurers of the insurance holding company system of which the company is a member and any other factors deemed relevant by the commissioner.

History: 1983 c 340 s 9-11

60A.14 FEES.

Subdivision 1. **Fees other than examination fees.** In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies:

- (1) for filing certificate of incorporation \$25 and amendments thereto, \$10;
- (2) for filing annual statements, \$15;
- (3) for each annual certificate of authority, \$15;
- (4) for filing bylaws \$25 and amendments thereto, \$10.

(b) by other domestic and foreign companies including fraternal and reciprocal exchanges:

- (1) for filing certified copy of certificate of articles of incorporation, \$50;
- (2) for filing annual statement, \$30;
- (3) for filing certified copy of amendment to certificate or articles of incorporation, \$50;

(4) for filing bylaws, \$25 or amendments thereto, \$10;

(5) for each company's certificate of authority, \$40, annually.

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, \$5;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and \$2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, \$40;

(4) for receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of insurance, as attorney for service of process upon any nonresident agent or insurance company, including

reciprocal exchanges, \$15; which amount must be paid by the party serving the notice and may be taxed as other costs in the action;

(5) for valuing the policies of life insurance companies, one cent per one thousand dollars of insurance so valued. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(6) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, \$50;

(7) for issuing an initial license to an individual agent, \$20, for issuing an initial agent's license to a partnership or corporation, \$50, and for issuing an amended or duplicate license, \$25;

(8) for an application, examination, or re-examination for one class of license, \$15 and an additional \$15 for an application, examination, or re-examination for the second class of license;

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

(10) for renewing an individual agent's license, \$20, and for renewing a license issued to a corporation or partnership, \$50;

(11) for issuing and renewing a surplus lines agent's license, \$500.

[For text of subd 2, see M.S.1982]

History: 1983 c 328 s 3

60A.15 TAXATION OF INSURANCE COMPANIES.

[For text of subds 1 to 10, see M.S.1982]

Subd. 11. **Appeals.** Either party to an action or a judgment for the recovery of any taxes, interest, or penalties under subdivision 10, may appeal as in other civil cases.

Subd. 12. **Overpayments, claims for refund.** (1) **Procedure, time limit, appropriation.** A company who has paid, voluntarily or otherwise, or from whom there has been collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of insurance a claim for a refund of the excess. Except as provided in subdivision 11, no claim shall be entertained unless filed within two years after the tax was paid or collected, or within 3-1/2 years from the filing of the return, whichever period is the longer.

Upon the filing of a claim, the commissioner shall examine it and shall make and file written findings denying or allowing the claim in whole or in part. He shall mail a notice thereof to the company at the address stated upon the return. If the claim is allowed in whole or in part, the commissioner shall issue his certificate for the refundment of the excess paid by the company, with interest at the rate of two percent per annum computed from the date of the payment or collection of the tax until the date the refund is paid to the company. The commissioner of finance shall pay the refund out of the proceeds of the taxes imposed by this section, as other state moneys are expended. As much of the proceeds of the taxes as necessary are appropriated for that purpose.

(2) **Denial of claim, court proceedings.** If the claim is denied in whole or in part, the company may commence an action against the commissioner to recover any overpayments of taxes claimed to be refundable for which the commissioner

has issued no certificate of refundment. The action may be brought in the district court of the district in the county of its principal place of business, or in the district court for Ramsey county. The action may be commenced six months after the claim is filed if the commissioner has not then taken final action on it. The action shall be commenced within 18 months after the notice of the order denying the claim.

(3) **Denial of claim, appeal.** Either party to the action may appeal as in other civil cases.

(4) **Consent to extend time.** If the commissioner and the company have, within the periods prescribed in clause (1), consented in writing to any extension of time for the assessment of the tax, the period within which a claim for refund may be filed, or a refund may be made or allowed, if no claim is filed, shall be the period within which the commissioner and the company have consented to an extension for the assessment of the tax and six months thereafter. The period within which a claim for refund may be filed shall not expire prior to two years after the tax was paid.

(5) **Overpayments; refunds.** If the amount determined to be an overpayment exceeds the taxes imposed by this section, the amount of excess shall be considered an overpayment. An amount paid as tax constitutes an overpayment even if in fact there was no tax liability with respect to which the amount was paid.

Notwithstanding any other provision of law to the contrary, in the case of any overpayment, the commissioner, within the applicable period of limitations, shall refund any balance of more than one dollar to the company if the company requests the refund.

[For text of subd 13, see M.S.1982]

History: 1983 c 247 s 29,30

60A.17 AGENTS; SOLICITORS.

Subdivision 1. **License.** (a) **Requirement.** No person shall act or assume to act as an insurance agent in the solicitation or procurement of applications for insurance, nor in the sale of insurance or policies of insurance, nor in any manner aid as an insurance agent in the negotiation of insurance by or with an insurer, including resident agents or reciprocal or interinsurance exchanges and fraternal beneficiary associations, until that person obtains from the commissioner a license therefor. The license must specifically set forth the name of the person so authorized to act as agent and the class or classes of insurance for which that person is authorized to solicit or countersign policies. An insurance agent may qualify for a license in the following classes: (1) life and health; and (2) property and casualty.

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

(b) **Partnerships and corporations.** A license issued to a partnership or corporation must be solely in the name of the entity to which it is issued; provided, that each partner, director, officer, stockholder, or employee of the licensed entity who is personally engaged in the solicitation or negotiation of a policy of insurance on behalf of the licensed entity shall be personally licensed as an insurance agent.

Upon request by the commissioner, each partnership and corporation licensed as an insurance agent shall provide the commissioner with a list of the names of

each partner, director, officer, stockholder, and employee who is required to hold a valid insurance agent's license.

(c) **Transition.** (1) Any agent who is qualified for life or accident and health as of June 1, 1981 is qualified for a life and health license under Laws 1981, chapter 307 and is appointed by an insurer which has submitted a written requisition for a license for that agent as of June 1, 1981.

(2) Any agent who is qualified for one or more lines of insurance, excluding life or accident and health and farm property liability as of June 1, 1981 is qualified for a property and casualty license under Laws 1981, chapter 307 and is appointed by any insurer which has submitted a written requisition for a license for that agent as of June 1, 1981.

(d) **Penalties.** (1) A person who acts or assumes to act as an insurance agent without a valid license issued by the commissioner is guilty of a gross misdemeanor.

(2) In addition to any other penalty, the commissioner may, in the manner prescribed by chapter 14, impose a civil penalty, not to exceed \$500 per violation, on a person who acts or assumes to act as an insurance agent without a valid license issued by the commissioner.

Subd. 1a. License application. (a) **Procedure.** An application for a license to act as an insurance agent shall be made to the commissioner by the person who seeks to be licensed and shall be accompanied by a money order or cashier's check payable to the state treasurer for the amount of the examination fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (8). All examination fees shall be nonrefundable. The applicant shall have six months from the date of payment of the examination fee to take the exam. The application for license shall be accompanied by a written appointment from an admitted insurer authorizing the applicant to act as its agent under one or both classes of license. The insurer must also submit its check payable to the state treasurer for the amount of the appointment fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (9) at the time the agent becomes licensed. The application and appointment shall be on forms prescribed by the commissioner.

If the applicant is a natural person, no license shall be issued until that natural person has become qualified.

If the applicant is a partnership or corporation, no license shall be issued until at least one natural person who is a partner, director, officer, stockholder, or employee shall be licensed as an insurance agent.

(b) **Resident agent.** The commissioner shall issue a resident insurance agent's license to a qualified resident of this state as follows:

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

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

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

(4) The examination shall be given only after the applicant has completed a program of studies in a school, which shall include a school conducted by an admitted insurer, a correspondence course given by an admitted insurer, or other course of study. The course of study shall consist of the equivalent of 45 hours study for each line for which a license application is made. After January 1, 1982, the program of studies or study course shall have been approved by the commissioner in order to qualify under this clause. If the applicant has been previously licensed for the particular line of insurance in the state of Minnesota, the requirement of a program of studies or a study course shall be waived. A certification of compliance by an admitted insurer shall accompany the agent's license application. This program of studies in a school or a study course shall not apply to farm property perils and farm liability applicants, or to agents writing such other lines of insurance as the commissioner may exempt from examination by order;

(5) The applicant must pass the examination with a grade determined by the commissioner to indicate satisfactory knowledge and understanding of the class or classes of insurance for which the applicant seeks qualification. The commissioner shall inform the applicant as to whether or not the applicant has passed;

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

(7) Any applicant for a license covering the same class or classes of insurance for which the applicant was licensed under a similar license in this state, other than a temporary license, within the three years preceding the date of the application shall be exempt from the requirement of a written examination, unless the previous license was revoked or suspended by the commissioner.

(c) **Nonresident agent.** The commissioner shall issue a nonresident insurance agent's license to a qualified person who is a resident of another state or country as follows:

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

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

Service of process upon any licensee in any action or proceeding commenced in any court of competent jurisdiction of this state may be made by serving the

commissioner with appropriate copies of the process along with payment of the fee pursuant to section 60A.14, subdivision 1, paragraph (c), clause (4). The commissioner shall forward a copy of the process by registered or certified mail to the licensee at the last known address of record or principal place of business of the licensee; and

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

(d) **Denial.** (1) If the commissioner finds that an applicant for a resident or nonresident license has not fully met the requirements for licensing, the commissioner shall refuse to issue the license and shall promptly give written notice to both the applicant and the appointing insurer of the denial, stating the grounds for the denial. All fees which accompanied the application and appointment shall be deemed earned and shall not be refundable.

(2) The commissioner may also deny issuance of a license for any cause that would subject the license of a licensee to suspension or revocation. If a license is denied pursuant to this clause, the provisions of section 60A.17, subdivision 6c, paragraph (c) apply.

(3) The applicant may make a written demand upon the commissioner for a hearing within 30 days of the denial of a license to determine whether the reasons stated for the denial were lawful. The hearing shall be held pursuant to chapter 14.

(e) **Term.** All licenses issued pursuant to this section shall remain in force until voluntarily terminated by the licensee or until suspended or revoked by the commissioner. A voluntary termination shall occur when the license is surrendered to the commissioner with the request that it be terminated or when the licensee dies, or when the licensee is dissolved or its existence is terminated. In the case of a nonresident license, a voluntary termination shall also occur upon the happening of the event described in paragraph (c), clause (3).

Every licensed agent shall notify the commissioner within 30 days of any change in address or change in state of residency.

(f) **Subsequent appointments.** A person who holds a valid agent's license from this state may solicit applications for insurance on behalf of an admitted insurer with which the licensee does not have a valid appointment on file with the commissioner; provided, that the licensee has permission from the insurer to solicit insurance on its behalf and, provided further, that the insurer upon receipt of the application for insurance submits a written notice of appointment to the commissioner accompanied by its check payable to the state treasurer in the amount of the appointment fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (9). The notice of appointment shall be on a form prescribed by the commissioner.

(g) **Amendment of license.** An application to the commissioner to amend a license to reflect a change of name, or to include an additional class of license, or for any other reason, shall be on forms provided by the commissioner and shall be accompanied by the applicant's surrendered license and a money order or cashier's check payable to the state treasurer for the amount of fee specified in section 60A.14, subdivision 1, paragraph (c), clause (7).

An applicant who surrenders an insurance license pursuant to this clause retains licensed status until an amended license is received.

(h) **Exceptions.** The following are exempt from the general licensing requirements prescribed by this section:

- (1) Agents of township mutuals who are exempted pursuant to subdivision 1b;
- (2) Fraternal beneficiary association representatives exempted pursuant to subdivision 1c;
- (3) Any regular salaried officer or employee of a licensed insurer, without license or other qualification, may act on behalf of that licensed insurer in the negotiation of insurance for that insurer; provided that a licensed agent must participate in the sale of any such insurance;
- (4) Employers and their officers or employees, and the trustees or employees of any trust plan, to the extent that the employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits for the employees of the employers or employees of their subsidiaries or affiliates involving the use of insurance issued by a licensed insurance company; provided, that the activities of the officers, employees and trustees are incidental to clerical or administrative duties and their compensation does not vary with the volume of insurance or applications therefor;
- (5) Employees of a creditor who enroll debtors for life or accident and health insurance; provided the employees receive no commission or fee therefor; and
- (6) Clerical or administrative employees of an insurance agent who take insurance applications or receive premiums in the office of their employer, if the activities are incidental to clerical or administrative duties and the employee's compensation does not vary with the volume of the applications or premiums.

[For text of subs 1b and 1c, see M.S.1982]

Subd. 1d. **Renewal fee.** Each agent licensed pursuant to this section shall annually pay in accordance with the procedure adopted by the commissioner a renewal fee as prescribed by section 60A.14, subdivision 1, paragraph (c), clause (10).

[For text of subs 2c to 6b, see M.S.1982]

Subd. 6c. **Revocation or suspension of license.** (a) The commissioner may suspend or revoke an insurance agent's license issued to a natural person or impose a civil penalty appropriate to the offense, not to exceed \$5,000 upon that licensee, or both, if, after notice and hearing, the commissioner finds as to that licensee any one or more of the following conditions:

- (1) any materially untrue statement in the license application;
- (2) any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance;
- (3) violation of, or noncompliance with, any insurance law or violation of any rule or order of the commissioner or of a commissioner of insurance of another state or jurisdiction;
- (4) obtaining or attempting to obtain any license through misrepresentation or fraud;
- (5) improperly withholding, misappropriating, or converting to the licensee's own use any moneys belonging to a policyholder, insurer, beneficiary, or other person, received by the licensee in the course of the licensee's insurance business;
- (6) misrepresentation of the terms of any actual or proposed insurance contract;
- (7) conviction of a felony or of a gross misdemeanor or misdemeanor involving moral turpitude;

(8) that the licensee has been found guilty of any unfair trade practice, as defined in chapters 60A to 72A, or of fraud;

(9) that in the conduct of the agent's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or the licensee has been shown to be incompetent, untrustworthy, or financially irresponsible;

(10) that the agent's license has been suspended or revoked in any other state, province, district, territory, or foreign country;

(11) that the licensee has forged another's name to an application for insurance; or

(12) that the licensee has violated subdivision 6b.

(b) The commissioner may suspend or revoke an insurance agent's license issued to a partnership or corporation or impose a civil penalty not to exceed \$5,000 upon that licensee, or both, if, after notice and hearing, the commissioner finds as to that licensee, or as to any partner, director, shareholder, officer, or employee of that licensee, any one or more of the conditions set forth in paragraph (a).

(c) A revocation of a license shall prohibit the licensee from making a new application for a license for at least one year. Further, the commissioner may, as a condition of relicensure, require the applicant to file a reasonable bond for the protection of the citizens of this state, which bond shall be maintained by the licensee in full force for a period of five years immediately following issuance of the license, unless the commissioner at his or her discretion shall after two years permit the licensee to sooner terminate the maintenance filing of the bond.

(d) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of chapter 60A or of any rule or order of the commissioner:

(1) The commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from the violation. The order shall give reasonable notice of the time and place of hearing and shall state the reasons for the entry of the order. A hearing shall be held not later than seven days after the issuance of the order unless the person requests a delay. After the hearing and within 30 days of filing of any exceptions to the hearing examiner's report, the commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(2) The commissioner may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with chapter 60A and any rule or order of the commissioner; and

(3) In any proceeding under chapter 60A relating to injunction, the request for injunction may be brought on for hearing and disposition upon an order to show cause returnable upon not more than eight days notice to the defendant. The case shall have precedence over other matters on the court calendar and shall not be continued without the consent of the state of Minnesota, except upon good cause shown to the court, and then only for a reasonable length of time as may be necessary in the opinion of the court to protect the rights of the defendant.

(e) The commissioner may, in the manner prescribed by chapter 14, impose a civil penalty not to exceed \$5,000 upon a person whose licensed has lapsed, or

been suspended, revoked, or otherwise terminated, for engaging in conduct prohibited by paragraph (a) before, during, or after the period of his or her licensure.

Subd. 7a. Surrender, loss, or destruction of license. (a) The commissioner shall promptly notify the licensee and all appointing insurers, where applicable, of any suspension, revocation, or termination of the licensee's agent's license by the commissioner. Upon receipt of the notice of suspension or revocation of a license, the licensee shall immediately deliver it to the commissioner.

(b) An agent whose resident or nonresident license is terminated as provided in subdivision 6c, shall deliver the terminated license to the commissioner by personal delivery or by mail within 30 days after the date of termination.

(c) The commissioner may issue a duplicate license for any lost, stolen, or destroyed license issued pursuant to this section upon an affidavit of the licensee concerning the facts of the loss, theft, or destruction, and the payment of a fee of \$3 by money order or cashier's check payable to the state treasurer.

(d) An insurance agent shall notify the commissioner within 30 days of any fine imposed on that agent by another state or of a suspension or revocation of license by the commissioner of insurance of this or any other state.

[For text of subds 8 to 16, see M.S.1982]

Subd. 17. Premiums. All premiums or other monies received by an agent from an insured or applicant for insurance must be forthwith deposited directly in a business checking, savings, or other similar account maintained by the agent or his agency, unless the moneys are forwarded directly to the designated insurer.

Subd. 18. Personal solicitation of insurance sales. (a) **Definitions.** For the purposes of this subdivision, the following terms have the meanings given them:

(1) "agent" means a person, copartnership, or corporation required to be licensed pursuant to subdivision 1.

(2) "personal solicitation" means any contact by an agent, or any person acting on behalf of an agent, made for the purpose of selling or attempting to sell insurance, when either the agent or a person acting for the agent contacts the buyer by telephone or in person, except: an attempted sale in which the buyer personally knows the identity of the agent, the name of the general agency, if any, which he or she represents, and the fact that the agent is an insurance agent; an attempted sale in which the prospective purchaser of insurance initiated the contact; or a personal contact which takes place at the agent's place of business.

(b) **Disclosure requirement.** Before a personal solicitation, the agent or person acting for an agent shall, at the time of initial personal contact or communication with the potential buyer, clearly and expressly disclose:

(1) the name of the person making the contact or communication;

(2) the name of the agent, general agency, or insurer he or she represents;

(3) the fact that the agent, agency, or insurer is in the business of selling insurance.

(c) **False representation of government affiliation.** No agent or person acting for an agent shall make any communication to a potential buyer that indicates or gives the impression that the agent is acting on behalf of a government agency.

Subd. 19. Privacy of client. Except as otherwise provided by law, no insurance agent may disclose nor cause to be disclosed to any other person the identity of a person insured through the agent without the consent of the insured.

History: 1983 c 216 art 1 s 16; 1983 c 263 s 1-6; 1983 c 328 s 4,5

NOTE: The amendments to subdivision 1 by Laws 1983, chapter 328, section 4, are effective January 1, 1986. See Laws 1983, chapter 328, section 12.

60A.1701 CONTINUING INSURANCE EDUCATION.

Subdivision 1. **Definition.** For the purposes of this section, "course" means a course, program of instruction, or seminar of continuing insurance education.

Subd. 2. **Applicability.** This section applies to all natural persons licensed by this state to sell classes of insurance for which licensing examinations are required.

Subd. 3. **Exemptions.** This section does not apply to:

(a) persons soliciting or selling solely on behalf of companies organized and operating according to chapter 67A; or

(b) persons holding life and health, or property and casualty licenses who, by February 28 of each year, certify to the commissioner in writing that they will sell only credit life, credit health, and credit property insurance, during that year and do in fact so limit their sale of insurance.

Subd. 4. **Continuing insurance education advisory task force.** The commissioner of insurance may appoint a continuing insurance education advisory task force consisting of 13 members. All members must be residents of Minnesota. Three members must neither be employed by an insurance company nor licensed as an insurance agent. These three members are not eligible to be chairperson and are compensated according to section 15.059, subdivision 6. Each of the other ten members must be actively engaged in some activity in the insurance industry in this state and have a principal office located in this state. These ten members serve without compensation, but are paid reasonable and necessary expenses incurred in the performance of their duties in the same amount and in the same manner as state employees. Three of these ten members must be employed in capacities other than as licensed agents by insurance companies authorized to do business in this state. The remaining seven members must be licensed insurance agents actively engaged in the solicitation and sale of insurance and currently subject to continuing education requirements. Membership on the advisory task force must represent, to the extent possible, the various phases of the insurance industry and especially the several classes of insurance.

The commissioner shall appoint the members of the task force. Before making appointments to the advisory task force, the commissioner shall solicit nominations from the several professional organizations representing persons selling insurance in this state and from the organizations representing companies authorized to do business in this state.

Subd. 5. **Powers of the advisory task force.** (a) Applications for accreditation of each course must be submitted to the commissioner on forms prescribed by the commissioner and must be accompanied by a fee of not more than \$10 payable to the state of Minnesota for deposit in the general fund. If the advisory task force is created, it shall make recommendations to the commissioner regarding the accreditation of courses sponsored by institutions, both public and private, which satisfy the criteria established by this section, the number of credit hours to be assigned to the courses, and rules which may be promulgated by the commissioner. The advisory task force shall seek out and encourage the presentation of courses.

(b) If the advisory task force is created, it shall make recommendations and provide subsequent evaluations to the commissioner regarding procedures for reporting compliance with the minimum education requirement.

Subd. 6. **Powers of the commissioner.** (a) The commissioner shall make the final determination as to accreditation and assignment of credit hours for courses.

(b) The commissioner shall adopt procedures for reporting compliance with the minimum education requirement. These procedures are not subject to the rulemaking provisions of chapter 14.

(c) The commissioner shall promulgate rules according to chapter 14 to carry out the purposes of this section.

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

(b) The commissioner may not accredit a course:

- (1) that is designed to prepare students for a license examination;
- (2) in mechanical office or business skills, including typing, speedreading, use of calculators, or other machines or equipment;
- (3) in sales promotion, including meetings held in conjunction with the general business of the licensed agent; or
- (4) in motivation, salesmanship, psychology, or time management.

Subd. 8. Minimum education requirement. Each person subject to this section shall complete annually a minimum of 20 credit hours of courses accredited by the commissioner. Any person teaching or lecturing at an accredited course qualifies for 1-1/2 times the number of credit hours that would be granted to a person completing the accredited course. Credit hours over 20 earned in any one year may be carried forward for the following two years. The commissioner may recognize accredited courses completed in 1983, 1984, or 1985 for the minimum education requirement for 1985.

Subd. 9. Waiver of requirements. (a) The commissioner may grant a waiver or an extension of time up to 90 days to complete the minimum education requirement to an individual upon a showing of good cause. It is the licensed person's responsibility to request a waiver or extension on a form prescribed by the commissioner. As of the day the licensed person properly files a request for a waiver or extension, the license remains in effect until the commissioner notifies the licensed person of the commissioner's decision. The commissioner may approve a waiver or extension subject to any reasonable conditions. The person's license remains in effect during the compliance period determined by the commissioner. If the licensed person fails to comply with any reasonable conditions imposed by the commissioner, the commissioner shall terminate the license. If the request for a waiver or extension is denied by the commissioner, the licensed person shall have 30 days within which to satisfy the minimum education requirement involved in the request for a waiver or extension. If the minimum education requirement is not satisfied within the compliance period, the commissioner shall terminate the person's license.

(b) Upon application on a form prescribed by the commissioner, the commissioner may grant a waiver of the minimum education requirement to a group or class of licensed persons upon a showing of good cause.

Subd. 10. Reporting. (a) After completing the minimum education requirement, each person subject to this section shall file or cause to be filed a compliance report annually in accordance with the procedures adopted by the commissioner.

(b) Each compliance report must be accompanied by an annual continuing education fee of \$5 payable to the state of Minnesota for deposit in the general fund.

(c) An institution offering an accredited course shall comply with the procedure for reporting compliance adopted by the commissioner.

(d) If a person subject to this section completes a nonaccredited course, he may submit a written report to the advisory committee accompanied by a fee of not more than \$10 payable to the state of Minnesota for deposit in the general fund. This report must be accompanied by proof satisfactory to the commissioner that the person has completed the minimum education requirement for the annual period during which the nonaccredited course was completed. Upon the recommendation of the advisory committee that the course satisfies the criteria for course accreditation, the commissioner may approve the nonaccredited course and shall so inform the person. If the nonaccredited course is approved by the commissioner, it may be used to satisfy the minimum education requirement for the person's next annual compliance period.

Subd. 11. **Enforcement.** If a person subject to this section fails to complete the minimum education or reporting requirement or to pay the prescribed fees for any annual period, no license may be renewed or continued in force for that person for any class of insurance until the person has demonstrated to the satisfaction of the commissioner that all requirements of this section have been complied with or that a waiver or extension has been obtained.

If a person subject to this section fails to file a compliance request or a request for a waiver or extension with the commissioner within 30 days of the date on which the person is required to report, the commissioner may issue an order summarily suspending that person's license. The order is effective upon service on the person by first class mail at his last known address on file with the commissioner. A person whose license has been summarily suspended under this subdivision may, within 15 days of the date of the order, request a hearing to be conducted according to the provisions of chapter 14. The hearing must be held within 15 days of the commissioner's receipt of the request, but the person may agree to an extension. The summary suspension remains in effect pending the outcome of the hearing.

History: 1983 c 328 s 6

NOTE: Subdivisions 8 and 9, as added by Laws 1983, chapter 328, section 6, are effective January 1, 1985. See Laws 1983, chapter 328, section 12.

NOTE: Subdivisions 10 and 11, as added by Laws 1983, chapter 328, section 6, are effective January 1, 1986. See Laws 1983, chapter 328, section 12.

60A.198 TRANSACTION OF SURPLUS LINES INSURANCE.

[For text of subs 1 and 2, see M.S.1982]

Subd. 3. **Procedure for obtaining license.** A person licensed as a resident agent in this state pursuant to other law may obtain a surplus lines license by doing the following:

(a) filing an application in the form and with the information the commissioner may reasonably require to determine the ability of the applicant to act in accordance with sections 60A.195 to 60A.209;

(b) maintaining a resident agent license in this state;

(c) delivering to the commissioner a financial guarantee bond from a surety acceptable to the commissioner for the greater of the following:

(1) \$5,000; or

(2) the largest semiannual surplus lines premium tax liability incurred by him in the immediately preceding five years; and

(d) agreeing to file with the commissioner no later than February 15 and August 15 annually, a sworn statement of the charges for insurance procured or

placed and the amounts returned on the insurance canceled under the license for the preceding six month period ending December 31 and June 30 respectively, and at the time of the filing of this statement, paying the commissioner a tax on premiums equal to three percent of the total written premiums less cancellations; and

(e) annually paying a fee as prescribed by section 60A.14, subdivision 1, paragraph (c), clause (11).

[For text of subds 4 and 5, see M.S.1982]

History: 1983 c 328 s 7

60A.23 MISCELLANEOUS.

[For text of subds 1 to 7, see M.S.1982]

Subd. 8. Self-insurance plan administrators; vendors of risk management services. (1) **Scope.** This subdivision applies to any vendor of risk management services and to any entity which administers, for compensation, a self-insurance plan. This subdivision does not apply (a) to an insurance company authorized to transact insurance in this state, as defined by section 60A.06, subdivision 1, clauses (4) and (5); (b) to a service plan corporation, as defined by section 62C.02, subdivision 6; (c) to a health maintenance organization, as defined by section 62D.02, subdivision 4; (d) to an employer directly operating a self-insurance plan for its employees' benefits; or (e) to an entity which administers a program of health benefits established pursuant to a collective bargaining agreement between an employer, or group or association of employers, and a union or unions.

(2) **Definitions.** For purposes of this subdivision the following terms have the meanings given them.

(a) "Administering a self-insurance plan" means (i) processing, reviewing or paying claims, (ii) establishing or operating funds and accounts, or (iii) otherwise providing necessary administrative services in connection with the operation of a self-insurance plan.

(b) "Employer" means an employer, as defined by section 62E.02, subdivision 2.

(c) "Entity" means any association, corporation, partnership, sole proprietorship, trust, or other business entity engaged in or transacting business in this state.

(d) "Self-insurance plan" means a plan providing life, medical or hospital care, accident, sickness or disability insurance, as an employee fringe benefit, or a plan providing liability coverage for any other risk or hazard, which is not directly insured or provided by a licensed insurer, service plan corporation, or health maintenance organization.

(e) "Vendor of risk management services" means an entity providing for compensation actuarial, financial management, accounting, legal or other services for the purpose of designing and establishing a self-insurance plan for an employer.

(3) **License.** No vendor of risk management services or entity administering a self-insurance plan may transact this business in this state unless it is licensed to do so by the commissioner. An applicant for a license shall state in writing the type of activities it seeks authorization to engage in and the type of services it seeks authorization to provide. The license may be granted only when the commissioner is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be

offered. The commissioner may issue a license subject to restrictions or limitations upon the authorization, including the type of services which may be supplied or the activities which may be engaged in. The license fee is \$100. All licenses are for a period of two years.

(4) **Regulatory restrictions; powers of the commissioner.** To assure that self-insurance plans are financially solvent, are administered in a fair and equitable fashion, and are processing claims and paying benefits in a prompt, fair, and honest manner, vendors of risk management services and entities administering self-insurance plans are subject to the supervision and examination by the commissioner. Vendors of risk management services, entities administering self-insurance plans, and self-insurance plans established or operated by them are subject to the trade practice requirements of sections 72A.19 to 72A.30.

(5) **Rule making authority.** To carry out the purposes of this subdivision, the commissioner may adopt rules, including emergency rules, pursuant to sections 14.01 to 14.70. These rules may:

- (a) establish reporting requirements for administrators of self-insurance plans;
- (b) establish standards and guidelines to assure the adequacy of financing, reinsuring, and administration of self-insurance plans;
- (c) establish bonding requirements or other provisions assuring the financial integrity of entities administering self-insurance plans; or
- (d) establish other reasonable requirements to further the purposes of this subdivision.

History: 1983 c 154 s 1; 1983 c 328 s 8