

## CHAPTER 60C

## INSURANCE GUARANTY ASSOCIATION

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**60C.02 SCOPE, PURPOSE AND CONSTRUCTION.**

Subdivision 1. **Scope.** This chapter applies to all kinds of direct insurance, except life, title, accident and sickness written by life insurance companies, credit, mortgage guaranty, financial guaranty or other forms of insurance offering protection against investment risks, and ocean marine.

*[For text of subs 2 and 3, see M.S.1990]*

**History:** 1991 c 325 art 6 s 2

**60C.03 DEFINITIONS.**

*[For text of subs 1 to 5, see M.S.1990]*

Subd. 6. "Member insurer" means any person, including reciprocals or interinsurance exchanges operating under chapter 71A, township mutual fire insurance companies operating under sections 67A.01 to 67A.26, and farmers mutual fire insurance companies operating under sections 67A.27 to 67A.39, who (a) writes any kind of insurance not excepted from the scope of Laws 1971, chapter 145 by section 60C.02, and (b) is licensed to transact insurance business in this state, except any nonprofit service plan incorporated or operating under sections 62C.01 to 62C.23 and any health plan incorporated under chapter 317A, and includes an insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn.

*[For text of subd 7, see M.S.1990]*

Subd. 8. "Insolvent insurer" means an insurer licensed to transact insurance in this state, either at the time the policy was issued, or when the insured event occurred, and against whom an order of liquidation with a finding of insolvency has been entered after April 30, 1979 by a court of competent jurisdiction, in the insurer's state of domicile or of this state, under the provisions of chapter 60B, and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order. An insurer placed under administrative supervision under sections 60G.01 to 60G.09 or determined to be in hazardous financial condition under sections 60G.20 to 60G.22 is not an insolvent insurer as a result of that placement or determination.

*[For text of subd 9, see M.S.1990]*

Subd. 10. "Financial guaranty insurance" includes any insurance under which loss is payable upon proof of occurrence of any of the following events to the damage of an insured claimant or obligee:

(1) failure of any obligor or obligors on any debt instrument or other monetary obligation, including common or preferred stock, to pay when due the principal, interest, dividend or purchase price of such instrument or obligation, whether such failure is the result of a financial default or insolvency and whether or not such obligation is incurred directly or as guarantor by, or on behalf of, another obligor which has also defaulted;

(2) changes in the level of interest rates whether short term or long term, or in the difference between interest rates existing in various markets;

(3) changes in the rate of exchange or currency, or from the inconvertibility of one currency into another for any reason; and

(4) changes in the value of specific assets or commodities, or price levels in general.

**History:** 1991 c 325 art 6 s 3,4; art 21 s 2

#### 60C.04 CREATION.

All insurers subject to the provisions of Laws 1971, chapter 145 shall form an organization to be known as the Minnesota insurance guaranty association. All insurers defined as member insurers in section 60C.03, subdivision 6, are and shall remain members of the association as a condition of their authority to transact insurance business or to execute surety bonds in this state. An insurer's membership obligations under this chapter shall survive any merger, consolidation, restructuring, incorporation, or reincorporation. The association shall perform its functions under a plan of operation established and approved under section 60C.07 and shall exercise its powers through a board of directors established under section 60C.08. For purposes of administration and assessment the association shall be divided into five separate accounts: (1) the automobile insurance account, (2) the township mutuals account, (3) the fidelity and surety bond account, (4) the account for all other insurance to which this chapter applies, and (5) the workers' compensation insurance account.

**History:** 1991 c 325 art 6 s 5

#### 60C.06 ASSESSMENTS.

Subdivision 1. **Determination of amount.** The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bear to the net direct written premiums of all member insurers for the preceding calendar year on the kinds of insurance in the account. No member insurer may be assessed in any year on any account in an amount greater than two percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account.

*[For text of subds 2 to 6, see M.S.1990]*

**History:** 1991 c 325 art 6 s 6

#### 60C.09 COVERED CLAIMS.

Subdivision 1. **Definition.** A covered claim is any unpaid claim, including one for unearned premium, which:

(a)(1) Arises out of and is within the coverage of an insurance policy issued by a member insurer if the insurer becomes an insolvent insurer after April 30, 1979; or

(2) Would be within the coverage of an extended reporting endorsement to a claims-made insurance policy if insolvency had not prevented the member insurer from fulfilling its obligation to issue the endorsement, if:

(i) the claims-made policy contained a provision affording the insured the right to purchase a reporting endorsement;

(ii) coverage will be no greater than if a reporting endorsement had been issued;

(iii) the insured has not purchased other insurance which applies to the claim; and

(iv) the insured's deductible under the policy is increased by an amount equal to the premium for the reporting endorsement, as provided in the insured's claims-made policy, or if not so provided, then as established by a rate service organization.

(b) Arises out of a class of business which is not excepted from the scope of this chapter by section 60C.02; and

(c) Is made by:

(i) A policyholder, or an insured beneficiary under a policy, who, at the time of the insured event, was a resident of this state; or

(ii) A person designated in the policy as having an insurable interest in or related to property situated in this state at the time of the insured event; or

(iii) An obligee or creditor under any surety bond, who, at the time of default by the principal debtor or obligor, was a resident of this state; or

(iv) A third party claimant under a liability policy or surety bond, if: (a) the insured or the third party claimant was a resident of this state at the time of the insured event; (b) the claim is for bodily or personal injuries suffered in this state by a person who when injured was a resident of this state; or (c) the claim is for damages to real property situated in this state at the time of damage; or

(v) A direct or indirect assignee of a person who except for the assignment might have claimed under item (i), (ii), or (iii).

For purposes of paragraph (c), item (ii), unit owners of condominiums, townhouses, or cooperatives are considered as having an insurable interest.

A covered claim also includes any unpaid claim which arises or exists within 30 days after the time of entry of an order of liquidation with a finding of insolvency by a court of competent jurisdiction unless prior thereto the insured replaces the policy or causes its cancellation or the policy expires on its expiration date. A covered claim does not include claims filed with the guaranty fund after the final date set by the court for the filing of claims except for workers' compensation claims that have met the time limitations and other requirements of chapter 176 and excused late filings permitted under section 60B.37.

*[For text of subs 2 and 3, see M.S.1990]*

**History:** 1991 c 325 art 6 s 7

#### **60C.13 NONDUPLICATION OF RECOVERY.**

Subdivision 1. Any person having a claim under another policy, which claim arises out of the same facts which give rise to the covered claim, shall be first required to exhaust the person's right under the other policy. Any amount payable on a covered claim under this chapter shall be reduced by the amount of any recovery under such insurance policy. For purposes of this subdivision, another insurance policy does not include a workers' compensation policy.

*[For text of subd 2, see M.S.1990]*

**History:** 1991 c 325 art 6 s 8

#### **60C.14 DUTIES AND POWERS OF THE COMMISSIONER.**

*[For text of subd 1, see M.S.1990]*

**Subd. 2. Optional powers and duties.** The commissioner may:

(a) Require the association to notify the insureds of any insurer undergoing liquidation and any other interested parties of their possible rights under Laws 1971, chapter 145. Notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

(b) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance or to execute surety bonds in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. The fine shall not exceed five percent of the unpaid assessment per month, except that no fine shall be less than \$100 per month.

(c) Revoke the designation of any servicing facility if the commissioner finds claims are being handled unsatisfactorily.

(d) Disclose to the board of directors information regarding any member insurer,

or any company seeking admission to transact insurance business in this state, whose financial condition may be hazardous to policyholders or to the public. This disclosure does not violate any data privacy requirement or any obligation to treat the information as privileged. This disclosure does not change the data privacy or privileged status of the information. Board members shall not disclose the information to anyone else or use the information for any purpose other than their duties as board members.

*[For text of subd 3, see M.S.1990]*

**History:** 1991 c 325 art 21 s 3